914.

SUPREME COURT OF THE UNITED STATES.

No. 70.

THOMAS O. BURTON, APPELLANT,

VERSUS

WILLIAM L. SMITH, ET AL.

APPEAL FROM CIRCUIT COURT U. S. EAST VIRGINIA.

INDEX.

	Original.	*Print.*
Bill of Complaint	1	3
Subpœna in Chancery	8	6
Return of Subpœna	9	7
Supplemental Bill	10	7
Answer of Signora Cullen	10	7
" " Sarah Burton	11	8
" " James Fox	14	9
" " Lyddall Bowles admr of Reuben Burton	17	11
" " Jesse Puryear	22	13
" " Benjamin Sheppard	24	14
Amended Bill	27	15
New Subpœna agst Thomas O. Burton	28	15
Answer of Thomas O. Burton	29	16
Scirefacias agst Hales Sheriff of Henrico County, &c.	32	17
Return of Scirefacias	34	18
Decretal order	35	18
Deposition of Benjamin Sheppard	36	19
Exhibit No. 1—referred to in Complainants Bill	38	20
" No. 2 " " " "	39	20
" No. 3 " " " "	46	23
" No. 4 " " " "	51	25
" No. 5 " " " "	55	27
" No. 6 " " " "	60	29
Exhibit M. filed with the Answer of B. Sheppard	66	32
Exhibit filed with Sarah Burton's answer	71	35
Decree	77	37
Appeal prayed	82	39
Clerk's Certificate	84	40
Appeal Bond	84	40

Pleas at the City Hall in the City of Richmond, before the Court of the United States for the 5th Circuit and Eastern District of Virginia, on the day of 1837.

Be it remembered, that heretofore, to wit: on the fifteenth day of September one thousand eight hundred and thirty-four, came William L. Smith otherwise called William Smith and Matthew Kennedy by their attorney and filed their Bill of Complaint against Lyddall Bowles administrator of the personal estate of Reuben Burton deceased, Benjamin Sheppard, Sarah Burton, James Fox, Jesse Puryear, Samuel B. Cullen, Signora Cullen and James S. Cullen which Bill is in the following words to wit:

BILL.

To the Judges of the Circuit court of the United States for the fifth Circuit and Eastern District of Virginia.

William L. Smith otherwise called William Smith and Matthew Kennedy, both of whom are citizens of the State of Kentucky, show to the Court the following cause of complaint.

On the 8th day of June 1827, your complainants by the judgment of this Court, on its law side, recovered against Reuben Burton thirteen hundred and forty-eight dollars seventy-five cents with interest thereon from the fourteenth day of October 1823 till paid and thirty-one dollars and thirty-four cents for their costs by them about their suit expended. On this judgment a writ of fieri facias was issued the eleventh day of July 1827, but no return was made thereon, and after the return day thereof, to wit on the thirty-first day of December 1827, a writ of elegit was obtained.

These proceedings, your complainants are advised created a lien upon a moiety of all the lands and tenements of which the said Reuben Burton was seized at the day of obtaining the said judgment, or at any time afterwards.

Some years before the judgment, Daniel Burton the father of Reuben Burton died intestate, leaving Sarah Burton his widow and the following children as his heirs to wit: Thomas O. Burton a child by the said Sarah, and Susan who married Joseph C. Pleasants, Mary who married James Fox, Reuben, Rebecca E. and William M., by a former marriage. Rebecca E. Burton afterwards died intestate and unmarried, leaving her brothers and sisters as her heirs. As heirs of Daniel Burton his two sons Reuben and William M. were each entitled to a sixth part of *his* real estate; and as heirs of Rebecca E. Burton, they were each entitled to two-ninths of *her* real estate. Reuben Burton acquired by purchase the whole interest of William M. Burton as heir of Daniel Burton and also as heir of Rebecca Burton. And in this way his share of the real estate of Daniel Burton, (taking into

account the part of William M. and the part of Rebecca) was two-sixths and four-ninths of another sixth, being rather more than two-fifths.

By deed made on the 11th day of August 1827, and admitted to record in the office of Henrico County Court on the 12th day of September following Reuben Burton conveyed to Benjamin Sheppard and James Whitelaw the following real estate, to wit: all his right, title and interest in the Springfield pits commonly called Burton's coal-pits and the land annexed, and all his right, title and interest in the land which belonged to Rebecca Burton, about three hundred and fifty acres of land on Chickahominy swamp and a lot of ground with a wooden house thereon at Rockets in the city of Richmond. The same deed conveys one-third of a house lying between the court-house of Henrico county and James River built for the reception of slaves but as the claim of the said Reuben Burton was merely to a part of the house which he had put on the land of another, and he had no interest in the land itself, your complainants are advised that the judgment created no lien in respect to the same. The deed likewise conveys a residuary interest in certain land conveyed in trust to secure a debt to Edmund and Nathaniel Crenshaw but that property not having proved more than adequate to pay the debt which it was conveyed to secure, there is nothing it is believed which can be subjected to the judgment from the same.

In this deed the debt due your complainants is distinctly recognized and the deed professes to be for their benefit as well as for the benefit of the other creditors and the endorsers and sureties of the said Reuben Burton, but your complainants have never in any manner assented to the said deed or accepted the nominal security thereby given them. They have always preferred to pursue the course which was obviously open to them of enforcing the lien upon the lands which their judgment created.

James Whitelaw having refused to act as trustee and removed from Virginia to the state of Tennessee, sales were made under the said deed of the 11th of August 1827 by Benjamin Sheppard the other trustee. The sales of the right title and interest in the Springfield pits and land annexed and of the land on Chickahominy swamp were made on the 21st of December 1829, and Sarah Burton the widow of Daniel Burton purchased the interest in the pits and land attached for one thousand dollars, and James Fox purchased the land on Chickahominy swamp for five hundred dollars. The conveyance from Sheppard to Sarah Burton bears date the 16th of February 1830 and was admitted to record in the office of Henrico County court on the 15th of October 1830. That to Fox bears date the 21st of December 1829 and was admitted to record in the same office July 22d 1831, The land thus purchased by Fox, has sold by him to Jesse Puryear. The lot of ground with the wooden house thereon at Rockets appears to have been sold after the other property. It was conveyed by Benjamin Sheppard to Samuel B. Cullen called trustee for his infant children Signora Cullen and James S. Cullen by deed dated the 26th of May

1831 and admitted to record in the office of Henrico County court, January 5th 1832.

Your complainants have no knowledge of any lands being subject to their judgment except what are conveyed to Sarah Burton and to Fox and Cullen. In the deed of August 11th 1827 Reuben Burton conveys all his right, title and interest in the land formerly belonging to Rebecca Burton, but her land it is believed consisted of what she inherited from her father. It consisted of her interest in the pits and land attached thereto which was embraced in the before mentioned deed to Sarah Burton of the 16th February 1830.

Reuben Burton died on the day of and administration of his personal estate has since been granted to Lyddall Bowles. Your complainants have been informed by the said Bowles that there are no personal assets out of which the judgment can be obtained; and that they must look entirely to their lien upon the lands.

Copies of the judgment and of the several deeds herein before referred to are herewith filed as exhibits marked No. 1, 2, 3, 4, 5.

Your complainants have been informed that an agreement made in January 1820 between the widow and heirs of Daniel Burton (a copy of which is filed as on exhibit and marked No. 6) will be relied on by the said widow to prevent the enforcement of this lien upon the lands conveyed to her by the deed of February 16th 1830. The ground they understand is this: that by the agreement the widow is entitled to possession during her life of the Springfield tract of land with the exception of twenty-five acres attached to the mineral spring and with the exception also of the right of working the pits. It seems to be supposed on her part that there can be no lien on the land which she is entitled to possess during her life. But the answer is, that admitting there is no lien upon her life estate, there is a lien upon whatever interest Reuben Burton had in the land subject to that life estate. There is a lien upon whatever is conveyed by the deed of February 16th 1830 that is to say during her life upon a share of the pits and a share of the twenty-five acres and after her death upon a share of the whole tract of land.

It would be extraordinary indeed if the property conveyed by the deed of February 16 1830 could be exempt from the lien of the judgment. Although your complainants do not deem it material to their case they charge expressly that Benjamin Sheppard the trustee before mentioned knew of this judgment; that he mentioned it at the sales made by him; that the purchasers bought with a full knowledge of it; and under the impression that the property sold was subject to the judgment, it sold at a low price.

Your complainants charge expressly that Sarah Burton, or her agent who made the purchase knew of the judgment, and bought for one thousand dollars property which if it had not been liable to the judgment was worth more than double that sum. They charge that since the purchase by the said Sarah, the share which she has received of the profits of the pits in consequence of that purchase and

in right of the said Reuben Burton is of itself sufficient to satisfy the judgment.

Your complainants further state that they were not within the Commonwealth at the time the judgment aforesaid was rendered nor have they been within the Commonwealth at any time since: that their writ of elegit was never levied; and the said Reuben Burton having died, they are now under the necessity of coming into a Court of Equity for relief.

In consideration of the premises, your complainants pray that Lyddall Bowles administrator of the personal estate of Reuben Burton deceased, Benjamin Sheppard, Sarah Burton, James Fox, Jesse Puryear, Samuel B. Cullen, Signora Cullen and James S. Cullen all of whom are citizens of Virginia may be made defendants hereto and proper process awarded against them; that a Guardian ad litem may be assigned to the two last named defendants who are infants; that the said two infant defendants by guardian and the other defendants upon oath may make full, true and perfect answer to the matters herein contained; that the said Lyddall Bowles administrator as aforesaid may state what amount of personal assets he has received and how the same have been applied, when he first had notice of your complainants judgment, and whether there are any assets out of which the same can be satisfied, that the said Benjamin Sheppard may state whether he had knowledge of that judgment before or at the time of the sales by him herein before mentioned, whether at the time of making the sales he mentioned that judgment and whether the purchasers bought with a knowledge of that judgment and subject thereto; that all necessary and proper accounts may be taken; that the whole real estate conveyed to the said Sarah Burton, James Fox and Samuel B. Cullen respectively by the said several deeds of the 16th of February 1830 21st of December 1829 and 26th of May 1831 may be subjected to the lien of the said judgment and a decree pronounced for the sale thereof, to such extent as a Court of Equity is authorized to decree such sale; that such of the defendants may be held personally responsible for the amount of the said judgment as ought to be charged therewith, and that your complainants may have such other and further relief in the premises as the nature of their case shall require and to the court may seem just and proper.

CON. ROBINSON, for pltfs.

SUBPŒNA IN CHANCERY.

The President of the United States of America,

To the Marshal of the Eastern Virginia District, Greeting: You are hereby commanded to summon Lyddall Bowles administrator of the personal estate of Reuben Burton deceased, Benjamin Sheppard, Sarah Burton, James Fox, Jesse Puryear, Samuel B. Cullen, Signora Cullen and James S. Cullen, all citizens of the state of Virginia to appear before the Judges of the Court of the United States for the fifth Circuit in the Eastern Virginia Dristict, at the City of Richmond, on the 22d day of November next, to answer a bill in Chancery exhibited against them by William L. Smith otherwise called William Smith

and Matthew Kennedy, citizens of the state of Kentucky and this they shall in no wise omit. And have then there this writ. Witness, John Marshall Esq. Chief Justice of the United States at Richmond, this 15th day of September one thousand eight hundred and thirty-four and in the fifty-ninth year of the Independence of the United States of America.

Rd. JEFFRIES, Clk.

Return,

Executed on all the defts.

W. CARTER, D. M.
For EDMUND CHRISTIAN, M. E. V. D.

And at another day to wit at a Court of the United States, for the fifth Circuit and Eastern District of Virginia held at the City Hall in the City Hall in the City of Richmond on the day of

On the motion of the plaintiffs by their attorney leave is granted them to file a Supplemental bill making Signora Cullen a defendant, as heir of Samuel B. Cullen and James S. Cullen as well as in her own right and said bill being filed and she being an infant Henry Gibson Clerk of the said Court is appointed Guardian ad litem to defend her in this cause whereupon the said Signora by her Guardian filed her answer to the original and supplemental bill, which said supplemental bill and the answer of the said Signora by her said Guardian are in the words following.

SUPPLEMENTAL BILL.

Circuit Court of the United States for the Eastern District of Virginia May term 1835.

WILLIAM L. SMITH otherwise called WILLIAM SMITH and MATTHEW KENNEDY, Plts. } In Chancery.

against

REUBEN BURTON'S admr. and others Dfts.

Your complainants show to the Court by way of supplement to their original bill that the defendants Samuel B. Cullen and James S. Cullen have both died, and the real estate to which they were entitled has descended to Signora Cullen who is already a defendant. The said Signora is an infant under the age of twenty-one years. Your complainants ask that she may be made a defendant as heir aforesaid as well as in her own right that a guardian ad litem may be assigned her and that by such guardian she may answer the allegations contained as well in the original as in this supplemental bill.

ANSWER OF SIGNORA CULLEN

By her Guardian Henry Gibson.

The defendant Signora Cullen by Henry Gibson Clerk of this Court assigned guardian to defend her in this suit saith that being an infant

under the age of twenty-one years she knows nothing of the matters contained either in the original or supplemental bill and submits her rights and interests in the premises to the care and protection of this Court.

HENRY GIBSON.

And at another day to wit at a Court of the United States for the 5th Circuit and Eastern District of Virginia held at the City Hall in the City of Richmond on the 19th day of May 1835 on the motion of Sarah Burton, James Fox Lyddall Bowles, Jesse Puryear and Benjamin Sheppard the decrees nisi awarded against them are set aside and leave is granted them to file their answers, which said answers are in the words following to wit:

SARAH BURTON'S ANSWER.

The answer of Sarah Burton to a bill of complaint exhibited against herself and others in the Circuit Court of the United States for the Eastern District of Virginia by William L. Smith and Matthew Kennedy of Kentucky.

This respondent saving and reserving to herself all benifit of exception to the said bill, for answer to so much thereof as she is advised it is material for her to answer, answereth and saith, that she did purchase through her agent, tho' not for her own benifit Reuben Burton's interest in the Springfield coal mines and the tract of land attached thereto, from Benjamin Sheppard as Trustee for the Creditors of Reuben Burton, of whom the plaintiffs claim to be a part and receive from him a conveyance therefor a copy of which is herewith exhibited marked (A) but this respondent utterly denied that the complainants have any lien or any valid claim thereon, and she requires of them full proof of everything necessary to make out such claim. It is true this respondent believes that the complainants have a judgment against Reuben Burton, upon which a writ of Elegit issued as she has been informed which has never been returned although levied upon other real estate of R. Burton. But this respondent utterly denies that by virtue of that judgment the complainants are entitled to any compensation from her, because the judgment gives a lien only by virtue of the capacity which it imparts to extend the land and the interest in the land and coal mines purchased by the *Complainants* could never have been extended by the complainants because the said Reuben Burton had not at the time any estate in them upon which an elegit could have been levied—and the conveyance by the said Reuben Burton to Sheppard and Whitelaw being bona fide to satisfy creditors passed a good title and gave precedence over the complainants and under this deed this respondent claims and upon it insists. This respondent further insists however that even putting the conveyance aforesaid to Sheppard out of the question she is advised that the plaintiffs have no claim which is entitled to overeach a bona fide purchase from Reuben Burton, the property not being subject to the elegit at the time and there being no suit in Chancery depending to subject it to any claim of the complainants, at the time of the purchase by this respondent.—If

however the complainants have any remedy at all it is still at law—They can have no better remedy now than an unobstructed creditor by judgment and Elegit has against the lands of his debtor, and that is a plain remedy at Law to extend one half the lands and this respondent therefore insists that the Complainants are not in any manner entitled to the aid and benefit of a Court of Equity and she prays the full benefit of this objection and in any event she insists that the Complainants are not entitled to a sale of any portion of the land or coal mines purchased by her. This respondent also insists that the complainants have no right or power now to enforce their judgment against any one as more than five years have elapsed since the death of Reuben Burton and the judgment she is informed has never been revived.

As to the alleged condition of the sales which is pretended in the Bill, this Respondent denies any knowledge of it herself, and she is informed and believes that the property purchased in her name was not sold as under any liability whatever to the claim of the plaintiffs, and for this she refers to the conveyance above mentioned to her, and the certificate of Benjamin Sheppard the trustee herewith filed marked B, which shows precisely all the liabilities to which the said property was exposed, and she is informed that the said Sheppard has since declared that he did not consider the said property as liable to the claim of the plaintiffs. The property conveyed to this respondent, was not purchased for her own benefit it is true but for the benifit of her son, Thomas O. Burton but the sale was a public and bona fide sale, and the purchase money paid and this respondent claims all the benifit and every advantage to which a bona fide purchaser is entitled—and having fully answered and denying all fraud she prays to be hence dismissed with her costs.

LYONS, p. d.

Henrico County, to wit:

This day Sarah Burton personally appeared before me a justice of the peace for the County aforesaid and made oath that so much of the foregoing answer as depends upon her own knowledge is true and so much as depends upon the information of others she believes to be true. Given under my hand this 19th day of May 1835.

WM. H. JOHNSON.

ANSWER OF JAMES FOX.

The answer of James Fox to a bill of complaint exhibited against himself and others by William L. Smith and Mathew Kennedy in the Circuit Court of the United States for the Eastern District of Virginia.

This Respondent saving and reserving to himself all benifit of exception to the said bill for answer thereto answereth and saith. that he admits that he did purchase a tract of land in the County of Henrico which was sold by Benjamin Sheppard acting as trustee for Reuben Burton and his creditors, and it was conveyed to him for *Three hun-*

dred and fifty acres but in point of fact there were only two hundred and ninety three.

This respondent further admits that he knew or was informed rather that the plaintiffs had a claim against Reuben Burton for which they had obtained a judgment in this Court, but he denies that the knowledge or information of that fact diminished unless to a nominal amount merely the price of the property for no one seemed to regard it at all, and this respondent purchased at a full price, for Mrs Mary M. Burton the widow of Reuben Burton was entitled to dower in it, and one Mrs. Allen was entitled to a life estate in one hundred acres of the tract comprising the best part of it, and including all the improvements.—And as proof that this respondent considered himself as paying a full price for the land he repeatedly offered during the life of Mrs. Allen to sell the tract for the same price but could not effect a sale.

This Respondent denies however that the Complainants had any lien upon the land which he purchased or upon any other lands of Reuben Burton by their judgment in this Court—but if they acquired any lien it was only upon one moiety and could not embrace the portion in which Mrs. Allen was entitled to a life estate for that was not at that time exposed in any manner to the operation of the judgment directly, and could not be extended during the life of Mrs. Allen and the Complainants have taken none of the steps which were necessary in order to give them a lien upon the resulting or reversionary interest which Reuben Burton owned in the property.

This respondent denies further that the Complainants had any just or legal title whatever to a sale of the land (the moiety upon which if upon any part they have a lien) for he is advised that against a purchaser for valuable consideration the rights of a creditor are never enlarged, and that utmost right of the Complainants here is to extend the moiety of the lands which were subject to their lien when it was acquired and this respondent therefore also insists that the Complainants have no right or claim whatever to the aid of a Court of Equity but should be compelled to proceed with their legal remedy.

This respondent farther answering insists that the judgment of the Complainants is not at this time in force and that no proceeding can be had upon it and that the Complainants are therefore not entitled to the aid of this Court, or indeed of any other Court, for more than five years have elapsed since the death of Reuben Burton and no process has been ever issued to revive the said judgment and it cannot therefore be now enforced in any manner but is barred and to be regarded as satisfied.

And having fully answered this Respondent prays to be hence dismissed with his costs, by him most unjustly expended in this behalf.

JAMES FOX.

City of Richmond, to wit:

This day James Fox personally appeared before me a justice of the peace for the City of aforesaid and made oath that so much of the fore-

going answer as depends upon his own knowledge is true and so much as depends upon the information of others he believes to be true.

Given under my hand this fourteenth day of March 1835.

JOSEPH TATE,
Mayor.

ANSWER OF LYDDALL BOWLES, ADMR. OF

Reuben Burton, deceased.

The seperate answer of Lyddall Bowles administrator of Reuben Burton deceased, to a bill of complaint exhibited in the Circuit of the United States, for the fifth Circuit and Eastern District of Virginia, by William L. Smith and Mathew Kennedy citizens of the State of Kentucky.

This respondent now and at all times saving and reserving for himself all benifit of exception to the many errors and uncertainties in the said Bill contained, for answer thereto. or to so much thereof as he is advised is material and necessary for him to answer unto, he answers and says—That he believes it to be true the Plaintiffs did at the time charged in their Bill obtain a judgment in this Court against Reuben Burton for Thirteen hundred and forty eight dollars and seventy five cents with interest thereon from the 14th day of October 1823, till paid and thirty one dollars and thirty four cents for their costs in that suit—This respondent also believes it to be true that the executions mentioned in the Bill did issue on the above judgment and that they were disposed of in the manner charged in the Bill—Whether these proceedings constituted a lien upon the whole or any part of the lands and tenements of which the said Reuben Burton was seized at the day of obtaining the said judgment or at any time thereafter this respondent cannot say and submits to the decision of this Court—The judgment however of the plaintiffs has never been revived by any process against this respondent by the plaintiffs.

Reuben Burton died in the month of July or August 1829 and to this circumstance, this respondent now alludes and relies on it, as exempting any personal estate of Reuben Burton from the payment of the demand of the plaintiffs arising from the long delay in asserting this claim and the neglect to revive the judgment within five years against this respondent. In regard to the facts charged in the Complainants bill of the death intestate of Daniel Burton, the Father of Reubon Burton leaving a widow and the children named in the Bill this Respondent believes them to be true—He believes it to be also true, that by the death of the said Daniel and subsequently by the death of his daughter Rebecca intestate and by purchase from William M. Burton by Reuben Burton, the said Reuben Burton acquired the interest charged in the plaintiffs bill in the lands of which Daniel Burton was seized and possessed, at the time of his death—This Respondent admits the execution by Reuben Burton of the deed dated the 11th day of August 1827 to Benjamin Sheppard and James Whitelaw, by which he conveyed the real property, described in the Complainants Bill, and in this deed the debt due to the Plaintiffs is recognized, but this deed is not

known to your respondent ever to have been accepted by the Plaintiffs or that they have ever asserted any claim thereunder. Whitelaw refused to act under this deed and Benjamin Sheppard the other trustee has alone carried its provisions into effect.—He sold all the real estate by the said deed conveyed and it was purchased by the persons named in the Bill at the prices therein specified, and the conveyances for the lands were made by the said Sheppard, on the days charged in the Bill. This respondent was present at the time the purchases were made by Sarah Burton and James Fox.—The trustee and it is believed every one claiming any benifit under the Deed of trust of August 1827 to Whitelaw and Sheppard were informed of the existence of the Judgment of the plaintiffs; of its character and amount and of its supposed priority and legal effect —When therefore the property purchased by and conveyed to Sarah Burton and James Fox, was put up to be sold by Benjamin Sheppard the acting trustee it was distinctly announced and general notice given to those present and the bidders generally that this real property was to be sold subject to the claim of the plaintiffs upon their judgment aforesaid. A memorandum in writing in relation to this notification, it is represented to this respondent was made by his co-defendant and the sole acting trustee, Benjamin Sheppard and who will speak in his answer more particularly on this subject.—This respondent was a bidder at the sale, and distinctly recollects, the public notice given, that the lands were sold subject to the judgment of the Plaintiffs and they were purchased with this notice given at the time.

The bidding of this respondent was influenced by this notice, for he would have been willing to have given more for the property than the price at which it was struck out had it been sold exempt from the claim in question. The land conveyed to Sarah Burton was struck out to Thomas O. Burton or some other person who bid for her at his request at the sale who directed it to be charged to his mother Sarah Butler, who although not present at the sale was there represented by the said Thomas O. Burton.—The other purchaser James Fox was present at the sale, and had full notice, that he purchased subject to the claim of the judgment of the plaintiffs.—It was the believed and time has verified the truth of the belief, that Reuben Burton was insolvent —No lien on his personal estate and *choses* in action conveyed by the deed of the 11th of August 1827 was given by the judgment rendered in the June preceding in favor of the plaintiffs. Every thing owned by Burton was conveyed or assigned by the former deed to the Trustees for the Bona fide purposes indicated in the said Deed. This respondent knew of *of* the judgment of the plaintiffs before the death of Reuben Burton.—And as his administrator he has collected some small claims amounting to about one hundred and fifty dollars which is not more than sufficient to pay the costs of suits which he has been necessarily compelled to pay and other expenses of administration. In the early part of the year 1834, your respondent received as administrator of Reuben Burton upon a decree of the Superior Court of Law and Chancery for the county of James City the sum of thirteen hundred and fifty dollars, which after deducting the costs of prosecuting the claim and a reasonable commission, he paid over to Benjamin

Sheppard the acting trustee, the said claim having been by the deed aforesaid from the said Reuben Burton assigned to his trustees aforesaid. This fund was derived from an old, stale and as it had long been considered desperate claim; which by attentention and perseverance, was established however as justly due to the estate of the said Reuben Burton. Nothing therefore remains in the hands of your respondent as the administrator of the said Reuben Burton; and all that he paid over to Benjamin Sheppard except a small sum yet retained for the purposes of the trust has been by him distributed among those entitled thereto according to the terms of the deed of trust. If this court shall require an account to be rendered, of the administration of Reuben Burton by this respondent, he is prepared to do so, however useless and expensive such a labor will prove. But under the circumstances this Respondent is advised, that no such account ought to be ordered, until by a sale of the lands conveyed to Sarah Burton and James Fox by Benjamin Sheppard the trustee, subject to the plaintiffs claim, it shall be shown those lands are insufficient for the payment of that demand; for these lands would have sold for certainly nearly if not quite double the price at which they were sold but for this declared lien and liability. And now having answered &c. he prays hence to be dismissed with his costs.

LYD. BOWLES.

Henrico County, to wit:

This day Lyddal Bowles personally appeared before me a justice of the peace in and for the county aforesaid and made oath, that the facts stated in the foregoing answer are true.—Given under my hand this 18th day of July, 1835.

ANSWER OF JESSE PURYEAR.

The separate answer of Jesse Puryear to a bill of complaint against him and others exhibited, in the Circuit Court of the United States for the fifth Circuit and Eastern district of Virginia by William L. Smith and Matthew Kennedy citizens of the state of Kentucky.

This respondent now and at all times saving and reserving for himself all benifit of exception to the many errors and uncertainties in the said bill contained for answer thereto, or to so much thereof as he is advised, it is material and necessary for him to answer unto, he answers and says, he knows nothing of the facts charged in the Bill, except that this respondent has become the purchaser from James Fox, of the tract of land formerly belonging to Reuben Burton, and conveyed by him in trust as is charged in the bill to James Whitelaw and Benjamin Sheppard, and which was by the said Benjamin Sheppard sole acting trustee under the deed from the said Reuben Burton sold and conveyed to James Fox. This respondent purchased the said land at the price of one thousand dollars of James Fox, and made this purchase in the year 1833 and obtained from the said James Fox a deed of conveyance with general warranty, a copy whereof marked A is herewith filed as a part of this answer. And now having answered &c. he prays hence to be dismissed with his costs &c.

JESSE PURYEAR.

Henrico County, to wit:

This day Jesse Puryear personally appeared before me Lyd'l Bowles a justice of the peace for the aforesaid county and made oath that the facts contained in the foregoing answer are true. Given under my hand this 19th day of February, 1835.

LYD'L BOWLES.

ANSWER OF BENJAMIN SHEPPARD.

The answer of Benjamin Sheppard to a bill of complaint against him and others exhibited in this Court by William L. Smith and Matthew Kennedy citizens of Kentucky. This respondent now at all times saving and reserving for himself all benifit of exception to the many errors and uncertainties in the said bill contained, for answer thereto, or to so much thereof, as he is advised it is material and necessary for him to answer unto, he answers and says; that he has no personal knowledge of the judgment of the 8th day of June 1827 referred to in the plaintiffs bill and alledged to have been rendered in their favor on the Law side of this court on that day—nor of any writ of fieri facias or other execution charged to have been issued thereon. All these allegations may be true, but of their verity this respondent certainly has no personal knowledge and he calls for the proof of them. This respondent believes that as to the allegations in the bill of the death of Daniel Burton intestate leaving a widow whose name and that of the said Daniel Burton's children are given in the bill, and by whom his estate both real and personal was inherited is true—and that the title by descent or purchase to the real estate of the said Daniel Burton is correctly and accurately deduced in the bill.

This respondent admits the execution to him and James Whitelaw on the 11 day of August 1827, by Reuben Burton of the deed of trust referred to in the bill, and by which deed was conveyed to the Respondent and said Whitelaw the real or landed property mentioned in the Bill.—This deed was admitted to record on the 12th of September 1827 and on the 21st day of December 1829 this respondent as the only acting trustee proceeded to sell the entire subject conveyed to him and his co-trustee. At that sale it is true the lands and lot referred to in the Bill were sold—an account of these sales are herewith filed and prayed to be taken as a part of this answer and this account is marked "M."—On reference to this account of sales. the Court will perceive what was sold, and also the supposed existing liens or claims against the property then sold—the Springfield Coal-pits and land attached being about five hundred acres in which Reuben Burton had an interest of two-fifths, was believed to be liable to the Dower of his mother and was purchased by Sarah Burton at the price of one thousand dollars, and as well as this respondent recollects, something was said at the time of sale about a supposed claim of the plaintiffs under their judgment, and it was announced that if that judgment gave any lien, the land was sold liable to it also, for the Trustee designed to sell only such title and interest as was vested in him and did not design to make any warranty deed, or to guarantee the title in any manner

whatsoever—All the proceeds of these sales have been long since disbursed according to the requisitions of the deed of trust, and nothing remains in his hands.—The co-defendant of this respondent, Lyddall Bowles as the administrator of Reuben Burton by the decree of the Superior Court of Law and Chancery for James City county recovered of the estate of a certain Anthony Turner a considerable sum of money some of which has been paid to those entitled under the deed of trust, and the balance has remained in his hands.—This respondent has no funds of the Trust subject or of the estate of Reuben Burton, and believes upon a settlement of his accounts he will be probably in advance for the trust, he is in no manner interested in this controversy, and has been drawn into it only because of his agency under the said deed of trust. And now having answered, &c. he prays hence to be dismissed with his costs, &c.

Henrico County, to wit:

This day Benjamin Sheppard personally appeared before me a justice of the peace in and for the County of Henrico aforesaid and made oath that the facts stated in the foregoing are true.—Given under my hand this 13th day of November, 1835.

ROB. C. WILLIAMSON.

And at another day to wit: at a court of the United States for the fifth Circuit and Eastern District of Virginia held at the City Hall in the City of Richmond on the day of Novr. 1835.

On the motion of the plaintiffs by their Attorney and for reasons appearing to the Court leave is granted to them to amend their bill, by filing an amended bill making Thomas O. Burton a defendant in this cause whereupon the said amended bill being filed is in the words following to wit.

AMENDED BILL.

Your Complainants show to the Court that in the answer of Sarah Burton one of the defendants, it is stated that the purchase made by her of the Springfield coal mines and tract of land attached thereto from Benjamin Sheppard was not for her own benifit. but for the benifit of her son Thomas O Burton, Your complainants therefore ask that the said Thomas O. Burton may be made a defendant, and answer the allegations contained as well in the original as in this amended bill.

NEW SUBPŒNA
versus
THOMAS O. BURTON.

The President of the United States,

To the Marshal of the Eastern District of Virginia, Greeting: You are hereby commanded to summon Lyddall Bowles administrator of the personal estate of Reuben Burton deceased, Benjamin Sheppard,

Sarah Burton, James Fox, Jesse Puryear Henry Gibson Guardian ad litem of Signora Cullen and Thomas O. Burton, all citizens of the state of Virginia to appear before the Judges of the United States, for the fifth Circuit in the Virginia District at the city of Richmond, on the first Monday in January next, to answer as well the original bill as the amended bill in Chancery, exhibited against them by William L. Smith otherwise called William Smith and Matthew Kennedy, citizens of the State of Kentucky and this they shall in no wise omit. And have then there this writ. Witness Philip P. Barbour Esqr Judge of the Eastern District of Virginia at Richmond, this twelfth day of December one thousand eight hundred and thirty five and in the sixtieth year of the Independence of the United States of America.

HENRY GIBSON, Clk.

ANSWER OF THOMAS O. BURTON.

The answer of Thomas O. Burton to a bill of complaint exhibited against himself and others in the Circuit Court of the United States for the Eastern district of Virginia, by William L. Smith and Matthew Kennedy.

This Respondent saving and reserving to himself all benifit of exception to the said bill, for answer thereto answers and says—that he has no personal knowledge of the judgment relied on by the complainants in their Bill and cannot therefore say that the Complainants have or have not, such a judgment; he presumes they have as they have so charged, but he requires of them the proper proof of that judgment. This Respondent admits that he is the real owner of the interest, and property, in the coal mines called the Springfield mines, which the plaintiffs seek to charge as the property of Reuben Burton, by their judgment aforesaid. For the true account of the manner of acquiring it this respondent begs leave to refer to the answer of his mother and as defendant Sarah Burton and to rely as she does, upon all the grounds taken and relied upon in that answer.

This respondent denies that the property which he holds is in any manner liable to the claim of the plaintiffs, first because the judgment under which they claim gave no lien upon the interest which Reuben Burton owned in the Springfield coal mines, that interest being so situated at the time of the judgment that it could not be extended and having been conveyed by Reuben Burton for valuable consideration, bona fide as this respondent insists it was, before any step taken to subject it—and secondly because the said Judgment was not at the institution of this suit in such a state and condition as that it could be proceeded in as to any one,—and this Respondent is advised *is advised* that such is still the condition of the Judgment, and a judgment upon which no execution can be issued at Law cannot be enforced in a Court of Equity.

This respondent also insists that the said judgment is barred by the statute of limitations and cannot now be enforced and he prays the full benefit of the said statute.

This Respondent denies that he had any knowledge when the lands of Reuben Burton were sold of the claim of the plaintiffs as one affect-

ing the coal lands, and on the contrary he insists that he was expressly informed that the said lien did not affect the coal lands. This respondent denies that a Court of Equity has any power to sell the said coal lands or any lands for the purpose of satisfying the payment aforesaid even if that judgment were valid and now in full force, and insists that a Court of Equity cannot enlarge the power of a judgment and may only remove impediments to its execution if it can affect it at all—but this respondent is advised and insists that a Court of Equity never exercises this power to the injury of an innocent and bona fide purchaser for valuable consideration as this respondent is.

This respondent further answering, begs leave to suggest that the coal lands of Daniel Burton have never been divided among his heirs and that Reuben Burton left a widow, and he submits to this court whether all the heirs of Daniel Burton and the widow of Reuben Burton ought not to be made parties to this suit, and in default thereof the bill of the plaintiffs dismissed. And having fully answered as far as he is advised it is material and denying all fraud &c. he prays to be hence dismissed with his costs &c.

Henrico County, to wit:

This day Thomas O. Burton personally appeared before me a justice of the peace for county aforesaid and made oath that so much of the foregoing answer as depends upon his knowledge is true, and so much as depends upon information from others he believes to be true.

Given under my hand this 3d day of May, 1836.

GEO. F. GUY.

And to all of the foregoing answers the plaintiffs by their counsel filed their general replication and commissions are awarded to the plaintiffs and the defendants to take the depositions of their witnesses.

And at another day to wit on the fifteenth day of February 1836 came the plaintiffs by their attorney and sued out of the Clerk's office of the Court of the United States for the fifth Circuit and Eastern District of Virginia, a writ of Scire-facias against John Hales Sheriff of Henrico County to whom had been committed the unadministered estate of the said Reuben Burton deceased which said writ of Scire facias with the return thereon is in the words and figures following to wit.

Scire facias against John Hales Sheriff of Henrico County, and as such Committee admr of R. Burton dec'd.

The President of the United states of America,

To the Marshal of the Eastern District of Virginia Greeting; whereas in a suit in Chancery lately depending in the Court of the United States for the fifth Circuit and Eastern district of Virginia between William L. Smith otherwise called William Smith and Matthew Kennedy plaintiffs and Lyddall Bowles administrator of the personal estate of Reuben Burton deceased, Benjamin Sheppard. Sarah Burton, James Fox, Jesse Puryear, Henry Gibson guardian ad litem of Signora Cullen and Thomas O. Burton defendants, but before any decree was entered therein, the said Lyddall Bowles administrator as aforesaid of

Reuben Burton deceased departed this life and the administered estate of the said Reuben Burton deceased, was committed to the hands of John Hales Sheriff of Henrico County for administration according to law and the said William L. Smith otherwise called William Smith and Matthew Kennedy having applied for a proper remedy in this behalf, and being willing that right and justice may be done, agreeable to the acts of Congress of the United States, in such case made and provided, command you, that you make known according to law, to the said John Hales Sheriff of the county of Henrico aforesaid, and as such administrator of the unadministered estate of Reuben Burton deceased, that he be before the judges of the court of the United States, for the fifth Circuit and Eastern District of Virginia, in the city of Richmond on the 22d day of May next, to shew if anything for himself he can say why the said suit and proceedings therein had. should not stand and be revived against him, the said John Hales Sheriff of Henrico aforesaid and as such administrator of the unadministered estate of Reuben Burton deceased and be in all things in the same plight and condition as it was in at the time of the decease of the said Lyddall Bowles administrator of the personal estate of the said Reuben Burton deceased and further to do and receive what the said court shall in that part consider. And have then there this writ. Witness Philip P. Barbour Judge of the Eastern District of Virginia, at Richmond, this fifteenth day of February one thousand eight hundred and thirty six and in the sixtieth year of the Independence of the United States of America.

HENRY GIBSON, Clk.

Return

"Executed on John Hales Sheriff of Henrico County and administrator of Reuben Burton deceased.

March 7th, 1836.

WILLIAM A. CARTER, D M.
For ED. CHRISTIAN, M. E. V. D.

Service on 1 Deft.	$2 00
15 miles at 5c per m.	75
	$2 75

And at another day to wit. At rules holden in the Clerk's Office of the Court of the United States for the fifth Circuit and Eastern District of Virginia in the month of August 1836, the following decretal order was entered in this cause which said order with the return thereon made is in the words and figures following to wit: At rules holden in the Clerk's Office of the Court of the United States, for the fifth Circuit and Eastern District of Virginia in the month of August, 1836.

WILLIAM L. SMITH otherwise called WILLIAM SMITH and MATTHEW KENNEDY	Plts	In Chancery.
against		
LYDDALL BOWLES *admr* of the personal estate of REUBEN BURTON deceased	Defts	

The writ of Sciere-facias which issued in this cause against John Hales Sheriff of the County of Henrico to whom was committed the estate of Reuben Burton deceased for administration, having been returned duly executed on the said John Hales, and three months having elapsed since the service of the said Sciere-facias, and he still failing to appear and file his answer, On the motion of the plaintiffs by their counsel their original as well as their amended bill is taken for confessed as to him, and the Court will at a future day proceed to decree the matters thereof unless said John Hales committee administrator of the said Reuben Burton deceased, do, on or before the first day of the term next after he shall have been served with a copy of this rule, shew cause to the contrary.

A Copy
Teste
HENRY GIBSON Clk.

Return
"Executed on John Hales by service acknowledged Nov. 16, 1836.
WM. A. CARTER, D. M.
For EDMUND CHRISTIAN, M. E. V. D.

Service on 1 deft -	$2 00
15 miles - -	75
	$2 75

DEPOSITION OF BENJAMIN SHEPPARD.

Mr. Benjamin Sheppard. It appears from the papers in the case of Smith and Kennedy against Burton, Sheppard and others, that you were the trustee who sold the property Reuben Burton under his deed of the 12th of August 1827. Will you please to state whether or not notice of the judgment which had been gotten by Smith & Kennedy against Reuben Burton in the Circuit Court of the United States was given at the time of that sale, and especially at the time of the sale of the Springfield tract of land?

Answer. My answer filed in the case of Smith & Kennedy against R. Burton's administrator all the facts I recollect and I wish that to be taken as my answer to the above question.

Question by Defendants.

Will you look at the paper marked B now shewn to you and say whether it is or is not in your handwriting?

Answer. The paper marked B is in my hand writing.

Question by same.

Will you state whether that paper does not contain a true statement of the terms upon which you sold the property mentioned in it as trustee for Reuben Burton?

Answer. The paper marked B is in my hand writing, and I have no doubt contains the terms upon which the property therein contained was sold, but I still think as I have stated in my answer, that something was said about the plaintiffs Judgment operating a lien on the

Springfield pits, and that I then stated I intended selling Reuben Burton's interest in the property whatever it might be and nothing more.

BEN. SHEPPARD.

PAPER MARKED B. ABOVE REFERRED TO.

All the right and title of Reuben Burton in the Springfield coal-pits and land attached, say about five hundred acres, the said Reuben Burton's interest being two-fifths, which said two-fifths may be subject to the dower of his widow, the trustee only warrants such title as is vested in him as trustee, the purchaser to give bond with security and a deed of trust to secure the purchase money.

About Three hundred and fifty acres of land on Chickahominy Swamp being the residue of a larger tract which was alloted to the said Burton in the division of the land left by his father, Daniel Burton deceased in which Mrs. Allen has a life estate in one hundred acres, it is also subject, to the dower of the said Burton's widow, and to a writ of Elegit in favour of Smith and Kennedy of Kentucky.

The following are the Exhibits refered to in the Complainants Bill.

EXHIBIT NO. 1.

United States Court 5th Circuit and Eastern District of Virginia June 8th 1827.

WILLIAM L. SMITH otherwise called WILLIAM SMITH and MATTHEW KENNEDY, Plts. against REUBEN BURTON, Dft. } In Case.

Verdict and judgment in favor of the Plaintiffs against the defendant, for thirteen hundred and forty-eight dollars seventy-five cents with interest thereon from the fourteenth day of October 1823 till paid damages and costs. Plaintiffs costs $31,34 cents.

Abstract

Teste

RD. JEFFRIES Clk.

Upon the judgment of which the above is an abstract, a writ of Fieri facias was issued on the eleventh day of July 1827, which was not returned and on the thirty-first day of December in the same year, a writ of Elegit was issued which was returned without any return being made thereon,

Teste

RD. JEFFRIES Clk.

August 8th 1834.

EXHIBIT NO. 2.

This Indenture made this twelfth day of August in the year of our Lord one thousand eight hundred and twenty-seven, between Reuben

Burton of the County of Henrico of the one part, Benjamin Sheppard and James Whitelaw of the same County of the second part, and James Fox, *Robert*, Robert Douthatt, Lyddall Bowles, John T. Swann, Sarah Burton, Joseph C. Pleasants, Zachariah Magruder, Melchezedick Miller, Samuel Dunn and Company and other creditors of said Reuben Burton of the third part, who may think proper to avail themselves of the provisions of this Indenture, Whereas the said James Fox is security for the said Reuben Burton to a certain Edwards of King William County in a bond conditioned to pay upwards of five hundred and sixty dollars which bond is now due, and also the said James Fox is also security on a bond of one hundred dollars payable to a certain Fleet of King William County which bond *full* due first of January next And also the said Reuben Burton has promised and feels bound to pay a bond made by Mary Burton to Wm. M. Burton administrator of Rebe*ckah* E. Burton and assigned by said Wm. M. Burton to Mosby Sheppard for about two hundred and seventy seven dollars. Whereas the said Robert Douthatt Lyddall Bowles and John T. Swann are endorsers for the said Reuben Burton at the Farmers Bank of Virginia upon two notes amounting together to fifteen hundred dollars. Whereas the said Lyddall Bowles is endorser for R. & W. Burton at the office of discount and deposit of the Bank of the United States at Richmond for nine hundred dollars, six hundred dollars of which, the said Reuben Burton is desirous to secure to the said Lyddall Bowles. Whereas the said Reuben Burton has given several *bond* for the hire of slaves for the present year who is desirous to secure his securities whose names are not at this time recollected but will more fully appear upon the bonds being presented for payment. And whereas the said Reuben Burton is indebted to Sarah Burton for rent of the pits (that is her portion) and for the hire of slaves which amount is not at this time recollected the said Reuben Burton is desirous to secure.

Whereas the said Reuben Burton is indebted to Joseph C. Pleasants in about the sum of seven hundred dollars due by bond or note— Whereas — is indebted to Zachariah Magruder by two bonds or notes amounting to seven hundred dollars or upwards—Whereas the said Melchis*a*deck Miller is security for the said Reuben Burton upon a forthcoming bond to Robert Douthatt executor or administrator of Price for upwards of four hundred dollars. Whereas the said Reuben Burton is indebted to Samuel Dunn & Co. by notes and acceptances in a sum between two hundred and fifty *and fifty* or three hundred — And whereas the said Reuben Burton is indebted to William Smith of Missouri and Matthew Kenn*a*dy of Kentucky in about the sum of fifteen hundred dollars by Judgment of the Circuit Court of the United States for the Eastern District of Virginia.

And whereas the said Reuben Burton is indebted to sundry other persons not now particularly recollected in inconsiderable sums which he is desirous to such as *chose* to avail themselves of the provisions of this deed of trust.

And whereas Thomas O. Burton, John P. White and John Burton jr. are securities for the said Reuben Burton in a forthcoming bond to John L. Tate for about seventeen hundred—including interest and

costs, one thousand and ninety four dollars and seventy eight cents with interest, is all the said Reuben Burton admits to be justly due him that being the amount paid by the said John L. Tate for said Reuben Burton by his request upon a judgment of the Superior Court of Law for the County of Henrico in favor of Wolfes admr against George Savage late Sheriff of Henrico for whom the said Reuben Burton acted as deputy. And the said Reuben Burton being anxious to secure the payment of all his debts but more particularly to indemnify those who are his endorsers and securities, hath bargained and sold and by these presents doth bargain and sell to the said Benjamin Sheppard and James *Whitlaw* all the real and personal estate herein after mentioned to wit: all the right title and interest of the said Reuben Burton in the Springfield pits commonly called Burtons Coal pits being two fifths parts of the said Coal pits and land annexed, all the right title and interest of the said Reuben Burton in the land formerly belonging to Rebecca Burton now deceased, being about the same interest namely two fifth–. About three hundred and fifty acres of land lying on Chickahominy Swamp, being the residue of what was *alloted* to the said Reuben Burton on the division of a larger tract of land, belonging to his late father Daniel Burton, A lot of ground with a wooden house thereon lying at Rockets in the City of Richmond now occupied by Wm. Middleton: One third of a house lying between the Courthouse of Henrico County and James River built for the reception of slaves: also the proportion of the said Reuben Burton in the dower slaves, now held by Sarah Burton widow of Daniel Burton deceased also the following slaves Harry, Nelson, Adam, Dinah and her two children Warwick and Sarah Ann a girl and two small boys the names not recollected and all the residuary interest of the said Reuben Burton in sundry tracts and lots of land conveyed to secure to Edmund and Nathaniel Crenshaw the payment of a certain sum of money in a deed of trust from the said Reuben Burton for their benifit now of record in the Clerks Office of Henrico County Court. Also a debt due to the said Reuben Burton from Doc. John Dove of Richmond by a Judgment of the Superior Court of Law of Henrico County the payment of which debt is provided for by a deed of trust made by the said Dove to Robert G. Scott and John G. Williams Esq. also a debt due by John Watson and Charles Gilfert for about two thousand dollars, being the said Reuben Burtons proportion of the said debt, the balance about five hundred dollars belongs by agreement to the estate of George Savage which will appear by a due bill which Savages administrator brought suit on in Henrico County Court against said Reuben Burton which expressly says shall be paid out of the debt of Watson and Gilfert. Also a judgment in favour of the said Reuben Burton against a certain Thompson of Gloucester or Matthews County, now in the hands of Robert McCandlish Esq. of Williamsburg for collection, also a debt due by Robert Abbott Jun & Co late of Richmond for five hundred and five dollars: Also a debt due by John Carter of Fredericksburg for about four hundred dollars now in the hands of H. Fry of the said town of Fredericksburg for collection also five mules four horses one *waggon*, one cart, four head of cattle, one gig

and harness and all the household and kitchen furniture now in possession of the said Reuben Burton, and all the coal now lying at Rockets belonging to the said Reuben and all the coal raised and to be raised at Springfield pits between this day and *Chrismas* next with the machinery and apparatus necessarily used in digging and raising coal—and all other debts due by account, bond or in any way whatsoever to the said Reuben Burton *is* hereby conveyed. To have and to hold the aforementioned lands lots, personal estate and *choses* in action to the said Benjamin Sheppard and James *Whitlaw* their heirs executors, administrators and assigns forever upon trust nevertheless, that the said Reuben Burton shall retain the quiet and peaceable possession of the estate hereby conveyed until it becomes absolutely necessary to sell or dispose of some part of it to meet the engagements of some of the endorsers or securities of the said Reuben Burton for him—in which event the said trustees or the survivor of them shall be at liberty to sell at such time and in such manner as will best indemnify and save harmless such endorsers and securities of the said Reuben Burton, as well those named and others; and secondly for the other debts of the said Reuben Burton aboved mentioned. And thirdly any other just debt of the said Reuben Burton which may not have been particularly named. But the said Reuben Burton reserves to himself the right to collect any outstanding debts due him which will be paid over or accounted for by him with his said trustees—and the said Reuben Burton for himself his heirs, executors and administrators doth hereby warrant and defend the title of the above mentioned property real and personal to the said Benjamin Sheppard and James *Whitlaw* their heirs, executors administrators and assigns against the claim or claims of all and every person or persons whatever. In witness whereof the parties to these presents have hereunto set their hands and affixed their seals the date above written.

REUBEN BURTON [SEAL.]
[SEAL.]
[SEAL.]

In Henrico County Court Clerks Office September 12th 1827.

This Indenture was acknowledged by Reuben Burton a party to the same and admitted to Record.

Teste
LOFTIN N. ELLETT C. H. C.

A Copy,
Teste
LOFTIN N. ELLETT C. H. C.

EXHIBIT NO. 3.

This Indenture made this 16 day of February in the year of our Lord one thousand eight hundred and thirty between Benjamin Sheppard of the County of Henrico acting as trustee under a deed from Reuben Burton deceased of the first part and Sarah Burton of the same County of the second part. Whereas the said Reuben Burton

late of the County of Henrico with the view of securing and indemnifying various persons who had become bound as his endorsers and sureties and incurred other responsibilities for him and with the farther view of securing the payment of certain debts due and owing from him, did by an Indenture bearing date on the twelfth day of August in the year of our Lord one thousand eight hundred and twenty seven bargain sell and convey to the said Benjamin Sheppard and to a certain James Whitelaw certain tracts and parcels of land, also the interest of him the said Reuben Burton in certain tracts and parcels of land, also certain lots of ground and the interest of him the said Reuben Burton in certain lots of ground *and the interest of him the said Reuben Burton in certain lots of ground* situated in the city of Richmond also certain slaves and the interest of him the said Reuben Burton in certain slaves also various debts, judgments claims and articles of property of him the said Reuben Burton and amongst other subjects all the right, title interest and estate of him the said Reuben Burton in the Springfield Pits also called Burtons Coal Pits being the two fifths parts of the said coal pits and the two fifths parts of the tract of land attached thereto, the said tract of land entire being supposed to contain about five hundred acres. In Trust that the said Benjamin Sheppard and James Whitelaw or the survivor of them might and should have power to sell the said Coal pits, lands, Lots, houses, slaves and other property, or the interest of him the said Reuben Burton in the same or in any of them at such time and in such manner as in the first place would best indemnify the endorsers sureties and persons responsible for the said Reuben Burton provided for as aforesaid and afterwards for the payment of other debts of the said Reuben Burton as well such as are named in the said Indenture as those not enumerated therein, all which by reference to the said Indenture will more fully appear.

And whereas the said Benjamin Sheppard the sole acting trustee under the deed aforesaid in virtue of the authority vested in him by the said deed and in conformity with the provisions thereof did on the twenty first day of December in the year of our Lord one thousand eight hundred and twenty nine expose to sale by public auction several of the subjects and articles of property in the said Indenture of trust mentioned and amongst them the estate and interest of him the said Reuben Burton in the said Springfield Pits also called Burton's Coal Pits and the said tract of Land supposed to contain about five hundred acres and the interest of the said Reuben Burton in each being the two fifths parts, subject however to the dower rights of Mrs. Sarah Burton relict of Daniel Burton deceased subject also to the operation of a deed of trust bearing date on the fourth day of October in the year one thousand eight hundred and twenty two, from William M. Burton and Thomas O. Burton conveying one fifth part of the said Coal Pits and tract of land to Mosby Sheppard and Isaac Winston for the indemnity of Zachariah Magruder and John D. Brown as sureties to a certain Bond in the said deed of trust mentioned. And whereas at the sale made by the said Benjamin Sheppard as trustee as aforesaid the said Sarah Burton became the purchaser of the entire interest of the said Reuben Burton in the said Coal Pits and tract of land and which had

been conveyed to and vested in the said Benjamin Sheppard and James Whitelaw as trustees as aforesaid, that is to say the estate interest and property of him the said Reuben Burton in the two fifths parts of the said Springfield or Burtons Coal pits and two fifths parts of the said tract of land attached thereto subject to the estate and liens herein above mentioned at the price and sum of one thousand dollars, Now therefore this indenture witnesseth that the said Benjamin Sheppard acting trustee as aforesaid for and in consideration of the premises and especially for and in consideration of the said sum of one thousand dollars by the said Sarah Burton agreed to be paid to the said Benjamin Sheppard trustee as aforesaid hath given, granted, bargained and sold aliened, enfeoffed released and confirmed and by these presents doth give, grant bargain and sell, alien, enfeoff, release and confirm unto the said Sarah Burton all the estate right interest and property of him the said Reuben Burton in and to the said two fifths parts of the said Springfield or Burtons Coal Pits and of the tract of land thereunto annexed as fully and entirely as the same now are or ever have been conveyed to or vested in him the said Benjamin Sheppard as trustee as aforesaid. To have and to hold the said two fifths parts of the said Springfield or Burtons Coal Pits, and the said two fifths parts of the said tract of land thereunto annexed and supposed to contain in the whole five hundred acres (subject however to the reservations herein before specified) with all and singular the rights privileges and appurtenances thereunto belonging or used, held owned, occupied and enjoyed therewith or as parcel thereof to her the said Sarah Burton and to her heirs forever. And the said Benjamin Sheppard for himself his heirs &c doth covenant and agree with the said Sarah Burton her heirs &c that the right title and estate of him the said Benjamin Sheppard as trustee as aforesaid and not otherwise, he will against the right title and estate of himself and of all others claiming under him as aforesaid *he* will by these presents warrant and forever defend.—In testimony whereof the parties to this Indenture have thereunto subscribed their names and affixed their seals on the day and in the year herein first above written.

BEN: SHEPPARD [SEAL.]
[SEAL.]

In Henrico County Court Clerks Office Oct. 15th 1830.

This Indenture was acknowledged by Benjamin Sheppard one of the parties thereto and admitted to record.

Teste

LOFTIN N. ELLETT, C. H. C.

EHIBIT NO. 4.

This Indenture made this 21st day of December in the year of our Lord one thousand eight hundred and twenty nine between Ben. Sheppard acting as trustee under a deed of trust from Reuben Burton late of the County of Henrico of the first part and James Fox of the second part. Whereas the said Reuben Burton with the view of securing and indemnifying various persons who had become bound as his

endorsers and sureties and who had incurred responsibilities for him and with the further view of securing the paymant of various debts due and owing from him did by an indenture bearing date on the twelfth day of August in the year of our Lord one thousand eight hundred and twenty seven bargain sell and convey to the said Benjamin Sheppard and to a certain James Whitelaw certain tracts or parcels of land, also the interest of him the said Reuben Burton in certain tracts or parcels of land, also certain lots of ground and the interest of him the said Reuben Burton in certain lots of ground situated in the City of Richmond also certain slaves, and the interest of him the said Reuben Burton in certain slaves also various judgments debts claims and articles of property of him the said Reuben Burton and amongst the subjects and articles of property owned and claimed by the said Reuben Burton at the date and execution of the deed of trust aforesaid and coming within the operation of its provisions was a tract of land lying on Chickahominy swamp in the County of Henrico supposed to contain three hundred and fifty acres being the residue of what was alotted to the said Reuben Burton on the division of a larger tract of land belonging to the estate of Daniel Burton deceased the Father of the said Reuben Burton—In trust that the said Benjamin Sheppard and James Whitelaw or the survivor of them might have power and authority to sell the said several subjects and articles of property and the interest of the said Reuben Burton therein or in any of them at such time and in such manner as in the first place would best indemnify the endorsers sureties and persons responsible for the said Burton provided for as aforesaid and afterwards for the payment of other debts of the said Reuben Burton as well such as are named in the said deed as those not enumerated therein all which by reference to the said Indenture will more fully appear. And whereas the said Benjamin Sheppard the sole acting trustee under the deed aforesaid in virtue of the authority in him vested by the said Indenture and in conformity with the provisions thereof did on the twenty first day of December in the year of our Lord one thousand eight hundred and twenty nine expose to sale by public auction several of the subjects and articles of property in the said Indenture mentioned and amongst them the said tract or parcel of land lying on Chickahominy swamp in the County aforesaid supposed to contain three hundred and fifty acres the same being so exposed to sale by the said Benjamin Sheppard subject to a life estate in Mrs. Martha Allen in one hundred acres thereof and subject to the dower rights of Mrs. Mary Burton relict of the said Reuben Burton deceased and farther subject to the operation of a writ of Elegit executed upon the said tract of land or on a part thereof by a certain William L. Smith of the state of Missouri and of a certain Matthew Kennedy of the state of Kentucky and whereas at the sale so as aforesaid made by the said Benjamin Sheppard as trustee as aforesaid the said James Fox became the purchaser of the tract or parcel of land or of the right and interest of the said Reuben Burton as vested in the said Benjamin Sheppard under the deed of trust aforesaid at the price and sum of five hundred dollars. Now therefore this Indenture witnesseth that the said Ben. Sheppard trustee as aforesaid for and in consideration of the premises and especially for and in con-

sideration of the sum of five hundred dollars by the said James Fox to the said Ben. Sheppard trustee as aforesaid in hand paid at and before sealing and delivering of these presents *in hand paid* hath given, granted, bargained and sold enfeoffed aliened and confirmed and by these presents doth give. grant, bargain and sell enfeoff alien and confirm unto the said James Fox the aforesaid tract or parcel of land (or the interest of the said Reuben Burton therein lying and situated on Chickahominy swamp in the County aforesaid, supposed to contain three hundred and fifty acres being the residue of what was allotted to the said Reuben Burton on the division of a larget tract of land belonging to the estate of Danl. Burton deceased the father of the said Reuben Burton subject however to a life estate in Mrs. Martha Allen in one hundred acres thereof also to the dower right of Mrs. Mary Burton relict of the said Reuben Burton and farther subject to the operation of a writ of Elegit executed thereon or on a part thereof on behalf of Wm. L. Smith of Missouri and Mathew Kennady of Kentucky. To have and to hold the said tract or parcel of land with all and singular the woods, underwoods, ways, waters, water courses, houses, buildings, dwellings, offices, out houses and erections thereon with all other rights privileges and appurtenances thereto belonging or held, used, owned and enjoyed therewith or as part or parcel thereof, subject however to the estates, rights interests and reservations herein before enumerated, to him the said James Fox and to his heirs forever.

And the said Ben Sheppard as trustee as aforesaid for himself his heirs executors and administrators doth covenant and promise with and to the said James Fox his heirs, executors, administrators, &c. that the right title interest estate and property herein and hereby bargained, sold and conveyed he the said Ben Sheppard will by these presents warrant and defend against the right title interest estate and property of him the said Ben Sheppard his executors, administrators and of all persons claiming thro' or under them. In testimony whereof the parties to this Indenture have hereunto subscribed *his* names and affixed *his* seals on the day and in the year herein first above written.

BEN SHEPPARD [SEAL.]

In Henrico County Court Clerk's Office July 22d 1831. This Indenture was acknowledged by Ben Sheppard a party to the same and admitted to record.

Teste

LOFTIN N. ELLETT C. H. C.

A Copy

Teste

LOFTIN N. ELLETT C. H. C.

EXHIBIT NO. 5.

This Indenture made and entered into this 26th day of May 1831 Between Benjamin Sheppard only trustee acting under a deed of conveyance from Reuben Burton deceased and between Mary M. Burton

widow and relict of the said Reuben Burton deceased and both of the County of Henrico of the one part and Samuel B. Cullen trustee for his infant children *Seneora* and James S. Cullen of the city of Richmond of the other part witnesseth that whereas on the 12 day of August 1827 the said Reuben Burton did by his deed bearing date on the day and year last aforesaid and which is of record in the Clerk's Office of Henrico County Court convey to the said Benjamin Sheppard and to a certain James Whitelaw in trust for particular objects and purposes in the said deed recited and set forth certain real and personal estate mentioned in the said deed of trust and among the same is included "a lot of ground with a wooden house thereon lying at Rockets in the City of Richmond now occupied by William Middleton" and whereas by the terms of the said deed the trustees therein named are authorized to sell at such time and in such manner as may best attain the objects of the said trust and the said James Whitelaw having refused to act under the said deed of trust and the said Benjamin Sheppard hath been and yet is the sole acting trustee thereunder by and with the consent and approbation of all the parties interested therein—And whereas the said Mary M. Burton wife of the said Reuben Burton did not unite in the deed of trust whereby she yet hath and retains the right of dower in all the real estate conveyed by the said deed of trust. And by virtue of the authority vested in the said Benjamin Sheppard as the sole acting trustee under the said deed. he hath sold at the price of one hundred and fifty dollars to the said Samuel B Cullen trustee for his infant children *Seniora* and James S. Cullen the said "lot of ground with a wooden house thereon lying at Rockets in the City of Richmond" and the said Mary M. Burton hath sold to the same party all her right, title, interest or demand in or to the said lot being her dower interest therein as the widow of the said Reuben Burton at the price of twenty dollars. Now therefore this Indenture witnesseth that the said Benjamin Sheppard sole acting trustee as aforesaid and the said Mary M. Burton widow of the said Reuben Burton deceased for and in consideration of the sum of one hundred and fifty dollars in hand paid to the said Benjamin Sheppard trustee as aforesaid, as for the sum of twenty dollars to the said Mary M. Buron in hand paid before the signing and sealing of these presents, by the said Samuel B. Cullen trustee for his infant children *Seniora* and James S. Cullen the receipt whereof they do hereby acknowledge and him thereof forever acquit and discharge have granted bargained sold aliened enfeoffed transferred and conveyed and by these presents do grant, bargain, sell, alien, enfeoff transfer and convey to the said Samuel B. Cullen trustee for his infant children *Seniora* and James S. Cullen and their heirs and assigns forever the said "lot of ground with a wooden house thereon lying at Rockets in the City of Richmond now (at the date of the said deed of trust) occupied by Com. Middleton—To have and to hold the said lot with all and singular the improvements thereon and appurtenances thereto belonging to the said Samuel B. Cullen trustee for his infant children *Seniora* and James S. Cullen their heirs and assigns forever free from the claim of them the said Benjamin Sheppard trustee as aforesaid and Mary Burton widow as aforesaid of Reu-

ben Burton deceased and of all persons claiming by through or under them—And the said Benjamin Sheppard and Mary M. Burton do covenant and agree for themselves their heirs, executors and administrators to and with the said Samuel B. Cullen trustee for his infant children *Seniora* and James S. Cullen their heirs and assigns that they will to *them* forever warrant and defend the title to the property hereby conveyed against the demand or claim of themselves and their heirs and of all persons whomsoever. claiming or to claim title thereto, by through or under them—In testimony whereof the parties hereto of the first part have hereunto set their hands and affixed their seals the day and year first herein written.

BEN SHEPPARD [SEAL.]
MARY M. BURTON [SEAL.]

City of Richmond, to wit:

We Thomas Brockenbrough and Nathaniel Charter Justices of the peace for the City of Richmond in the State of Virginia do hereby certify that Mary M. Burton a party to a certain deed bearing date on the 26th day of May 1831 and hereto annexed personally appeared before us in our City aforesaid and acknowledged the same to be her act and deed and desired us to certify the said acknowledgement to the Clerk of the County Court of Henrico in order that the said deed may be recorded. Given under our hands and seals this 2nd day of June 1831.

THO: BROCKENBROUGH [SEAL.]
NATHL. CHARTER [SEAL.]

In Henrico County Court Clerk's Office, Jan'y 5th 1832.

This Indenture was acknowledged by Benjamin Sheppard a party to the same and with the certificate of the acknowledgement of Mary M. Burton another party to the same before two Justices of the peace for the City of Richmond admitted to record.

Teste
LOFTIN N. ELLETT C. H. C.

A Copy
Teste
LOFTIN N. ELLETT C. H. C.

EXHIBIT NO. 6.

Articles of agreement and mutual covenant made and entered into this day of January One thousand eight hundred and twenty. Between Sarah Burton widow and relict of Daniel Burton deceased of the County of Henrico and Joseph C. Pleasants and Susan his Wife and Susan Burton, Mary Burton, Reuben Burton, Rebeckah E. Burton, Wm. M Burton and Thomas O. Burton which said Susan, Mary, Reuben, Rebeckah Wm. M. and Thos. O. Burton are children and distributees of the said Daniel Burton deceased Witnesseth that in consideration of the covenant herein contained she the said Sarah Burton doth hereby covenant and agree to relinquish all her rights of dower

in and to all the lands of which her late husband died siezed and possessed except the mansion house tract called and known by the name of Springfield lying and being situated in the said County of Henrico containing with all and singular its appertenances except the right of using and working the Coal Pits and the mineral spring with twenty-five acres of land adjoining thereto to be subject to and disposed of according to the covenant herein after expressed and declared and she the said Sarah Burton doth hereby relinquish accordingly all her said rights of dower to them the said Joseph C. Pleasants and Susan his Wife, Mary Burton Reuben Burton, Rebeckah E. Burton, Wm. M. Burton and Thomas O. Burton and their heirs and each of their heirs and assigns they the said Joseph C. Pleasants and Susan his Wife, Mary Burton, Reuben Burton, Rebeckah E Burton Wm. M. Burton and Thomas O. Burton do hereby for themselves and their heirs covenant and agree that she the said Sarah Burton shall freely have occupy and enjoy the above mentioned mansion house tract called and known by the name of Springfield lying and being situate as aforesaid in the County of Henrico containing without hindrance or molestation from them or either of them their or either of their heirs during the natural life of her the said Sarah Burton together with all and singular the right of using and occupying or working the Coal Pits thereon and the right of using and occupying the Mineral Spring with twenty five acres of land thereto adjoining, part of said mansion house tract which said rights are limited and disposed of by the covenants hereinafter expressed that the said Sarah Burton for herself and her heirs relinquish and assign over and transfer to them the said Joseph C. Pleasants and Susan his Wife, Mary Burton, Reuben Burton, Rebeckah Burton, Wm. M. Burton and Thomas O. Burton during the natural life of her the said Sarah Burton all and all manner of right of occupying, using and working the Coal Pits on said Mansion house tract of land, and also the right and power of sinking shafts and searching for coals on any part or parcel of the said tract of land except the yard, houses and gardens but this power is to be exercised in such manner as to subject the cultivated parts of said estate to as little injury as a fair and discreet attention to the interests of the several parties hereto may justify, and also all the right and privilege of cutting and taking on any part of said tract of land all and necessary timber and wood for the use and proper management of said Coal pits now opened or hereafter to be opened by and under the right and power herein conveyed and given. They the said *Josep* C. Pleasants, and Susan his Wife, Mary Burton, Reuben Burton, Rebeckah E. Burton Wm. M. Burton and Thos. O. Burton for themselves and their heirs hereby covenant and agree that in the event of their using and working the said Coal pits now open or to be opened they will pay or cause to be paid to the said Sarah Burton annually the sum of two hundred dollars during the natural life of her the said Sarah Burton and they the said Sarah Burton, Joseph C. Pleasants and Susan his wife, Mary Burton Rebeckah E. Burton, Wm. M. Burton and Thomas O. Burton for themselves and their heirs hereby covenant agree to relinquish assign over and transfer to him the said

Reuben Burton the right privile*d*ge and power to rent and lease as he may deem most advantageous the mineral Spring and twenty-five acres of land part of said Mansion house tract—which twenty-five acres of land are to be laid out and allotted to them the said Sarah Burton Joseph C. Pleasants and Susan his Wife, Mary Burton, Rebe*ckah* E. Burton Wm. M. Burton and Thomas O. Burton each of them and each of their heirs and assigns and also one third of said rents issues and profits to her the said Sarah Burton during her natural life and to Joseph C. Pleasants and Susan his Wife, Mary Burton, Rebe*ckah* E. Burton, Wm. M. Burton and Thos O. Burton to them and their heirs one equal part of the two thirds reserving to himself the said Reuben Burton one equal part of the said two thirds to his own use and they the said Sarah Burton, Joseph C. Pleasants and Susan his Wife, Mary Burton, Reuben Burton, Rebe*ckah* E. Burton, Wm. M. Burton and Thos. O. Burton hereby covenant and agree mutually and interchangeably to and with each other their and each of their several heirs and assigns that they will do and perform all and every necessary act or acts to carry into complete execution each and every of the covenants herein contained according to the true intent and meaning of the parties hereto, and it is expressly understood and agreed by and between the parties hereto that each and every of the covenants herein contained and expressed *sall* cease to operate and be of no effect or binding force at the end of the year in which the said Sarah Burton shall depart this life except as to the rights and duties accrued and acquired by either or any of the parties hereto previous to that time. In witness whereof we have hereunto set our hands and affixed our seals the date and year first mentioned.

The a*rr*usure of that of the foregoing on second page from word belonging to word except was made before signing—signed and sealed in the presence of Richard Mosely, Martin Burton,

SARAH her X BURTON [SEAL.]
JOS. C. PLEASANTS [SEAL.]
SUSANNA PLEASANTS [SEAL.]
MARY BURTON [SEAL.]
REUBEN BURTON [SEAL.]
REBECKAH BURTON [SEAL.]
WM. M. BURTON [SEAL.]
THOMAS O. BURTON [SEAL.]

John Burton as it respects Sarah Burton Mary Burton, Reuben Burton Rebe*ckah* E Burton and Thomas O. Burton.

At a Monthly Court held for the County of Henrico at the Court house on the 3rd day of Decem. 1831. This Agreement was acknowledged by William M. Burton, and proved by the oath of Richard Mosely a witness as to Sarah Burton, Mary Burton, Reuben Burton, Rebecca E. Burton and Thomas O. Burton parties to the same.

Teste
J. B. WHITLOCKE C. H. C.

A Copy
Teste
CHARLES WILLS Dpy Clk.

August 28th, 1834.

CERTIFICATE OF ADMINISTRATION OF THE ESTATE

Of Reuben Burton deceased to Lyddall Bowles.

In Henrico County Court, Dec. 7, 1829.

On the motion of Lyddall Bowles who made oath according to law and together with Ambrose Hutheson his security (who first justified on oath as to his sufficiency) entered into and acknowledged a bond in the penalty of six thousand dollars conditioned as the law directs, a certificate was granted him for obtaining letters of administration on the estate of Reuben Burton deceased in due form.

A Copy
Teste
LOFTIN N. ELLETT, C. H. C.

In Henrico County Court February 1st 1836.

On the motion of Wm. L. Smith it is ordered that the unadministered estate of Reuben Burton deceased, be committed to the hands of John Hales Sheriff of Henrico County for administration according to law.

A Copy
Teste
LOFTIN N. ELLETT, C. H. C.

EXHIBIT FILED WITH THE ANSWER OF B. SHEPPARD.

Exhibit M.

Account sales of Reuben Burton's property sold on the 21st Decr. 1829 under a deed of Trust from said Burton to Ben. Sheppard and James Whitelaw for the benefit of his creditors.

Property sold.	*Purchasers names.*
All the right and title of Reuben Burton in the Springfield coal pitts and land attached say about 500 acres the said R. Burtons interest being 2-5 may be subject to the dower of his widow, the trustee only warrants such title as is vested in him as trustee, the purchaser to give bond and security and a deed of trust to secure the purchase money.	Sarah Burton, $1,000,00
	Subject to a deed of trust from Wm. M. Burton.
	Amount brought forward $1500

Property sold.		*Purchasers names.*	
About three hundred and fifty acres of land on Chickahominy Swamp being the residue of a larger tract which was allo*t*ed to the said Burton in the division of the land left by his Father Daniel Burton deceased in which Mrs. M. Allen has a life estate in 100 acres, it is also subject to the dower of said Burtons widow and to a writ of Elegit in favour of Smith and K*e*nad*y* of Kentucky.		Jas Fox & Lydl Bowles	$500,00
		Sarah Burton	$1000,00
The interest of said R. Burton in the dower slaves now held by Sarah Burton widow of Daniel Burton say 1-5, there being 35 or 36 slaves.			
1 Brindle Cow		Macon Ford	$3 00
1 ditto ditto		Jacob Smith	9 00
1 ditto ditto		John Meltore	10 00
1 White back ditto		James Miller	11 00
1 Black Horse		Rob. Melton	3 00
1 ditto ditto		Wm. Baker	63 00
1 Gig and Harness		Alfred Winston	45 00
1 Waggon		Macon Ford	10 50
1 Lot Waggon geer		Lydl Bowles	5 25
1 Cart		Rob. Melton	10 00
3 Butter Pots		Lydl. Bowles	25
4 Jugs		R. H. Saunders	1 00
2 Demijohns	paid	Mos Sheppard	55
1 Coffee Pot		Rob. Melton	1 00
1 Tea Kettle and Trivet	paid	Mos. Sheppard	1 15
1 Brass do		Isham Jennings	4 00
1 Set*t* Table China		Jas. S. Ryall	13 75
1 Pine Table		Wm. Fletcher	30
1 Doz. Winsor Chairs		Wm. Jennings 95 ea.	11 40
1 ditto ditto ditto		Jacob Smith	21 00
1 Set China		Mary Burton	5 00
1 ditto Q*e*ens ware		ditto	1 50
1 Lot Glass ware		Jacob Smith	4 20
1 ditto ditto ditto		Alfred Winston	1 60
4 Salt Stands		ditto	50
1 Tea Pot		Jacob Smith	1 05
2 Blue Pitchers		Alfred Winston	1 00
2 White and 2 red ditto		Mary Burton	1 00
1 Side Board		Nancy Coapland	31 00
1 Pair Dining Tables		ditto	21 00
1 Candle Stand		Mary Burton	2 00
		Carried ford.	$2786 00

Property sold.		*Purchasers names.*	
2 Plated Candlesticks		Mary Burton	1 00
2 Brass do		Isham Jennings	1 30
2 Lamps		Alfred Winston 80	1 60
1 Brass Fender		Jacob Smith	4 50
Tongs and Shovels		Ben Sheppard	1 90
1 Tea Table		Nancy Coapland	9 50
1 Carpet		Mary Burton	2 10
1 Bureau		ditto	5 00
1 Wash Bowl, &c.		ditto	50
1 Desk		Zach Magruder	15 50
1 Lot Books		Mary Burton	1 00
1 ditto ditto		Dr. Menlon	50
1 ditto ditto		Mary Burton	1 00
1 ditto ditto		Doc Menlon	25
1 ditto ditto		ditto	12½
1 ditto ditto		ditto	12½
1 Bed and Bedstead		Mary Burton	12 00
1 Carpet	paid	Reuben Tyler	2 50
1 Bed and Bedstead		Dr. Williamson	24 50
1 ditto ditto		Lydl. Bowles	17 00
1 Pair Blankets		ditto	4 75
1 Blanket	paid	Reuben Tyler	1 00
1 White Counterpane		Mary Burton	2 00
1 ditto ditto		Lydl. Bowles	3 25
4 Towels		Dr. Menlon	1 15
2 Pair Pillow Cases		Mary Burton	25
3 Pillow Cases		ditto	62½
1 Table Cloth		Jas. S. Ryall	1 70
1 ditto ditto		Mary Burton	1 00
1 ditto ditto		Wm. Menlon	80
2 ditto ditto		ditto	1 20
1 ditto ditto		Isham Jennings	25
1 Castor		Dr. Wm. Menlon	2 00
1 Large Silver Ladle		Jas. Fox	12 50
½ doz. ditto Spoons		Lydl. Bowles	17 00
½ doz. Tea ditto		Mary Burton	2 00
1 Tin Safe		Jacob Smith	3 00
1 Bed and Bedstead		Jesse Puryear	10 25
		Carried forward	$2951 82½
		Amount brought forward	$2951 82½
1 Knife Box Knives and Forks		John Miller	2 20
1 Saddle, &c.		Jacob Smith	4 50
2 Tin Pans		Isham Jennings	35
2 Tubs		Jacob Smith	75
3 Pails		Alfred Winston	95
1 Tin Pan		Thos. Turner	30
1 Pot		Jacob Smith	1 30
1 ditto		John Mellon	75

936

Property sold.	*Purchasers names.*	
1 ditto	Thomas Turner	55
2 Ovens	Alfred Winston	1 60
2 Pot racks	Lydl. Bowles	1 05
1 Pan, &c.	Jas. S. Ryal	1 05
Kitchen And Irons	Lydl. Bowles	1 50
1 Spinning Wheel	Mary Burton	1 00
1 Churn	Tho. Turner	60
2 Trays and Sifters	Alfred Winston	40
1 Small Fot	Shapard Brown	35
1 Coal Skuttle	Mosby Sheppard	25
1 Blower, &c.	Lydl. Bowles	25
1 Gig Whip	ditto	25
Sugar Tongs	ditto	25
½ doz. Tea Spoons	ditto	25
		$2977 27½

EXHIBIT FILED WITH

Sarah Burtons Answer.

This Indenture made the 16 of February in the year of our Lord one thousand eight hundred and thirty between Benjamin Sheppard of the County of Henrico acting as trustee under a deed from Reuben Burton deceased of the first part and Sarah Burton of the said County of the second part. Whereas the said Reuben Burton late of the County of Henrico with the view of securing and indemnifying various persons who had become bound as his endorsers, and sureties and incurred other responsabilities for him, and with the further view of securing the payment of certain debts due and owing from him did by an Indenture bearing date on the 12th day of August in the year of our Lord one thousand eight hundred and twenty seven, bargain sell and convey to the said Benjamin Sheppard and to a certain James Whitelaw certain tracts and parcels of land, also the interest of him the said Reuben Burton in certain tracts and parcels of land, also certain lots of ground, and the interest of him the said Reuben Burton in certain lots of ground situated in the City of Richmond also certain slaves and the interest of him the said Reuben Burton in certain slaves, also various debts, judgments claims and articles of property of him the said Reuben Burton and amongst other subjects, all the right, title in interest and estate of him the said Reuben Burton in the Springfield pits also called Burtons coal pits, being the two fifths parts of the said coal pits and the two fifths parts of the tract of land attached thereto, the said tract of land entire being supposed to contain about five hundred acres. In trust that the said Benjamin Sheppard and James Whitelaw or the survivor of them might and should have power to sell the said coal pits, lands, lots, houses, slaves, and other property, or the interest of him the said Reuben Burton in the same or in any of them at such time and in such manner, as in the first place would best

indemnify the endorsers, sureties and persons responsible for the said Reuben Burton provided for as aforesaid and afterwards for the payment of other debts of the said Reuben Burton as well such as are named in the said Indenture as those not enumerated therein all which by reference to the said Indenture will more fully appear. And whereas the said Benjamin Sheppard the sole acting trustee under the deed aforesaid in virtue of the authority vested in him by the said deed and in conformity with the provisions thereof, did on the 21 day of December in the year of our Lord one thousand eight hundred and twenty-nine—expose to sale by Public Auction several of the subjects and articles of property in the said Indenture of trust mentioned, and amongst them the estate and interest of him the said Reuben Burton in the said Springfield pits, also called Burton's coal pits, and the said tract of land to the said coal pits annexed the said tract of land supposed to contain about five hundred acres, and the interest of the said Reuben Burton in each being the two fifths parts subject however to the dower rights of Mrs. Sarah Burton relict of Daniel Burton deceased subject also to the operation of a deed of trust bearing date on the 4th day of October in the year one thousand eight hundred and twenty-two, from William M. Burton and Thomas O. Burton conveying one fifth part of the said coal pits and tract of land to Mosby Sheppard and Isaac Winston for the indemnity of Zachariah McGruder and John L. Brown as sureties to a certain bond in said deed of trust mentioned —And whereas at the sale made by the said Benjamin Sheppard as trustee as aforesaid, the said Sarah Burton became the purchaser of the entire interest of the said Reuben Burton in the said coal pits and tracts of land and which had been conveyed to and vested in the said Benjamin Sheppard and James Whitelaw as trustees as aforesaid, that is to say the estate, interest and property of him the said Reuben Burton in the two fifths parts of the said Springfield or Burtons coal pits and the two fifths parts of the said tract of land attached thereto, subject to the estate and liens herein above mentioned at the price and sum of one thousand dollars—Now therefore this Indenture witnesseth that the said Benjamin Sheppard acting trustee as aforesaid for and in consideration of the premises and especially for and in consideration of the said sum of one thousand dollars by the said Sarah Burton agreed to be paid to the said Benjamin Sheppard trustee as aforesaid, hath given, granted bargained and sold, aliened, enfeoffed, released and confirmed, and by these presents doth give, grant, bargain and sell, alien, enfeoff, release and confirm, unto the said Sarah Burton all the estate, right, interest and property of him the said Reuben Burton in and to the said two fifths parts of the said Springfield or Burtons coal pits and of the tract of land thereunto annexed as fully and entirely as the same now are or ever have been conveyed to or vested in him the said Benjamin Sheppard as trustee as aforesaid—To have and to hold the said two fifths parts of the said Springfield or Burtons coal pits, and the said two fifths parts of the said tract of land thereunto annexed and supposed to contain in the whole five hundred acres (subject however to the reservations herein before specified) with all and singular the rights, privileges, and appurtenances thereunto belonging, or used held

owned, occupied and enjoyed therewith or as parcel thereof, to her the said Sarah Burton and to her heirs forever—And the said Benjamin Sheppard for himself his heirs &c doth covenant and agree with the said Sarah Burton her heirs &c that the right title and estate of him the said Benjamin Sheppard as trustee as aforesaid and not otherwise, *he will* against the right title, and estate of himself and of all others claiming under him as aforesaid he will by these presents warrant and forever defend—In testimony whereof the parties to this Indenture have hereunto subscribed their names and affixed their seals the day and in the year herein first above written.

BEN. SHEPPARD [SEAL.]
[SEAL.]

In Henrico County Court. Clerks Office
Oct. 15, 1830.

This Indenture was acknowledged by Benjamin Sheppard one of the parties thereto and admitted to record.

Teste
LOFTIN N. ELLETT C. H. C.

A Copy
Teste
LOFTIN N. ELLETT C. H. C.

DECREE.

And at another day to wit at a Court of the United States for the fifth Circuit and Eastern District of Virginia, held at the City Hall in the City of Richmond on Tuesday the 5th day of Decemb. 1837. This cause came on to be heard upon the original bill, the supplemental bill making Signora Cullen a defendant as heiress of Samuel B. Cullen and James S. Cullen as well as in her own right, the amended bill making Thomas O. Burton defendant, the answers of Lyddall Bowles administrator of the personal estate of Reuben Burton deceased, Benjamin Sheppard, Sarah Burton, James Fox, Jesse Puryear and Thomas O. Burton and of the said Signora Cullen by Henry Gibson her Guardian, ad litem with the replications to all the said answers, the Scire-facias executed upon the defendant John Hales as Sheriff of Henrico county and administrator of the estate of Reuben Burton unadministered by Lyddall Bowles who has died, together with the decretal order taking the bills for confessed as to him which appears to have been duly served upon him, also upon the exhibits filed and upon the answers of the defendant Sheppard to certain interrogatories propounded to him which by agreement of the parties are to have the same effect as if his deposition was taken at large, or his evidence spread upon the order book, and was argued by counsel: On consideration whereof the Court is of opinion that the seventeenth section of the Act of the General Assembly of Virginia for limitation of actions, contained in the first volume of the Revised Code of 1819 page 492, would not at the time this suit was commenced have prevented an action or Scire-facias from being maintained against the administrator of

Reuben Burton upon the judgment in the bill mentioned, even if that judgment had been obtained in a State Court of Virginia because it appears that five years did not expire after the qualification of the administrator of Reuben Burton before the suit was commenced, and because also the saving clause in favor of persons out of the Commonwealth would operate to exempt the judgment of the plaintiffs from the operation of that act; and the Court is further of opinion that as the judgment so rendered remains in full force, it constitutes a lien upon a moiety of all the lands and tenements in Virginia of which Reuben Burton was seized at the day of obtaining the said Judgment or at any time afterwards; and that the lien so created by the Judgment, is in no manner impaired by the conveyance made after the date of the Judgment by Reuben Burton to Benjamin Sheppard and James Whitelaw, nor by the subsequent sales and conveyances made by Sheppard to Sarah Burton, James Fox and Samuel B. Cullen, nor by any disposition made by any of the parties, claiming through the said conveyance from Reuben Burton to Sheppard and Whitelaw, but that the said lien is still in full force upon all the real estate embraced in the last mentioned conveyance.

The said real estate upon which the lien of the Judgment so operates, is as follow, viz. a lot of ground with a wooden house thereon lying at Rockets in the City of Richmond, occupied at the date of the deed of trust to Sheppard and Whitelaw by one William Middleton; a tract of land lying on Chickahominy swamp in the County of Henrico supposed to contain three hundred and fifty acres being the residue of what was allotted to Reuben Burton deceased, in which the widow of Reuben Burton was supposed to have a right of dower and in one hundred acres whereof Mrs. Martha Allen was supposed to have a life estate; the interest of Reuben Burton being two sixths of four ninths of another sixth in all that part of the tract of land in the County of Henrico, called and known by the name of Springfield, which by agreement made in January 1820 between Sarah Burton widow of Daniel Burton and the heirs of the said Daniel ——— was allotted to her for life; and the interest of Reuben Burton being two sixths and four ninths of another sixth in the right of occupying and working the coal pits on the Springfield tract of land and in the right and power of sinking shafts and searching for coals on any part of the said tract, except the yard, houses and gardens, which power by the terms of the said agreement is to be exercised in such manner as to subject the cultivated parts of said estate to as little injury as a fair and discreet attention to the interests of the parties may justify and also in the right and privilege of cutting and taking on any part of said tract all necessary timber and wood for the use and proper management of said coal pits opened or to be opened in consideration of using and working which pits the heirs of Daniel Burton covenanted to pay to the said Sarah Burton annually during her life the sum of two hundred dollars; and the interest of the said Reuben Burton being two sixths and four ninths of another sixth in the mineral spring on the said Springfield tract with twenty-five acres *acres* of land thereto adjoining to one third part of the rent whereof the said Sarah Burton is

entitled during *during* her life. The lien of the judgment operates upon a moiety of Reuben Burton's interest. That moiety the Court is of opinion may be decreed to be sold out and out for the purpose of accelerating the payment. Wherefore the Court doth adjudge, order and decree that unless the defendants or some one of them or some one for them do within three months pay to the plaintiffs or their Counsel the amount of the said judgment to wit: the sum of Thirteen hundred and forty-eight dollars and seventy-five cents with interest thereon from the fourteenth day of October 1823 till paid and the costs of the suit in which the said judgment was obtained, and the costs of this suit, then the Marshal of this Court, whenever required by the plaintiffs or their Counsel shall after advertising the time, place and terms of sale for one month in one or more newspapers published in the City of Richmond proceed to sell upon the premises or in front of the Eagle Tavern in the City of Richmond as the said Marshal may deem most judicious at public auction to the highest bidder for cash or upon such credit as the plaintiffs or their counsel may be willing to give a moiety of the interest which the said Reuben Burton had at the date of the said Judgment or at any time afterwards in all the real estate herein before mentioned subject of course to the said life estates or such of them as may be continuing, taking from the purchasers for whatever credit may be given bonds with sufficient security, but executing no conveyance to any purchaser until the whole purchase money shall be paid and a conveyance directed by the Court. And the Marshal is directed to make a report of his proceedings in order to a final decree. Upon the question whether the defendants or any of them are liable to the plaintiffs for rents and profits arising from the interest of Reuben Burton in the said real estate prior to the date of this decree, the Court at present makes no decision but leaves that question open to be argued hereafter if the plaintiffs shall think it necessary or proper to do so.

And *at* now at this day to wit at a court of the United States for the fifth Circuit and Eastern District of Virginia held at the City Hall in the City of Richmond on Tuesday the 22nd May 1837.

The defendant Thomas O. Burton prayed an appeal from so much of the decree pronounced in this cause on the 5th day of December 1837 as subjects to charge and sale the reversionary interest in the Springfield tract of land and the supposed interest that is alleged was in Reuben Burton in the month of June 1827 in the working of the coal pits and the use of the Mineral Spring on that tract, which said appeal is allowed upon the said defendant entering into *into* bond and security in the Clerks Office in the sum of three hundred dollars conditioned as the law directs. And on the motion of the said Thomas O. Burton by his Attorney the Court doth order that the record in the common law cause in which the judgment in the proceedings mentioned was obtained with all the papers therein filed be attached to the record in this suit.

Fifth Circuit and Eastern District of Virginia.

I Henry Gibson Clerk of the Court of the United States for the Circuit and District aforesaid do hereby certify that the foregoing is a true transcript of the record and proceedings in a certain Suit in Chancery lately depending in the said Court of the United States for the fifth Circuit and Eastern District of Virginia between William L. Smith otherwise called William Smith and Matthew Kennedy Plts and Lyddall Bowles admr of the personal estate of Reuben Burton deceased and others defendants with all things touching the same, as fully and wholly as they now exist among the records of my Office.

In testimony whereof I hereto set my hand and annex the seal of the said Court this eleventh day of December 1839.

HENRY GIBSON
Clerk.

United States of America
Eastern District of Virginia, to wit:

I Peter V. Daniel Judge of the United States for the Eastern District of Virginia, do certify that Henry Gibson who hath given the preceding certificate is Clerk of the Court of the United States for the fifth Circuit and Eastern District of Virginia; and that his said attestation is in due form.

Given under my hand, this 12th day of January 1839.

PETER V. DANIEL.

The following is the appeal bond given upon the foregoing Appeal, executed by Thos O Burton and Edwin Burton.

APPEAL BOND.

Know all men by these presents that we Thomas O. Burton and Edwin Burton are held and firmly bound unto William L. Smith and Matthew Kennedy in the just and full sum of Three hundred dollars to be paid unto the said William L. Smith and Matthew Kennedy their executors, admrs or assigns; for the payment whereof, well and truly to be made, we bind ourselves, our heirs *exors* and administrators firmly by these presents, sealed with our seals and dated this 22nd day of May 1838.

The condition of the above obligation is such, that—whereas, at a Court of the United for the fifth Circuit and Eastern District of Virginia, held at the City Hall in the City of Richmond on Tuesday the 5th day of December 1837 in a suit in Chancery depending in said Court between the above named William L. Smith and Matthew Kennedy Plaintiffs and the above bound Thomas O. Burton with others defendants it was adjudged, ordered and decreed "that unless the defendants or some one of them, or some one for them do within three months pay to the plts or their Counsel, the amount of the said judgment to wit: the sum of $1348,75 with interest thereon from the 14th day of October 1823 till paid and the costs of the suit in which the said judgment was obtained, and the costs of this suit, then the

Marshal of this Court, whenever required by the plts or their Counsel, shall, after advertising the time, place and terms of sale for one month in one or more newspapers published in the City of Richmond proceed to sell upon the premises or in front of the Eagle Tavern in the City of Richmond as the Marshal may deem most judicious at Public Auction to the highest bidder for Cash, or upon such credit as the plts or their Counsel may be willing to give, a moiety of the interest which the said Reuben Burton had at the date of the said judgment, or at any time afterwards in all the real estate *estate* herein before mentioned &c &c" from so much of which decree as subjects to charge and sale, the reversionary interest in the Springfield tract of land and the supposed interest that is alleged was in Reuben Burton in the month of June 1827 in the working of the Coal pit*s* and the use of the Mineral on that tract, the above bound Thomas O. Burton took an appeal to the Supreme Court of the United States: If therefore the said Thomas O. Burton shall pay all costs which shall be incurred by and awarded against him in the prosecution of the said appeal then this obligation to be void, else to remain in full force and virtue.

THOMAS O. BURTON [SEAL.]
EDWIN BURTON [SEAL.]

Clerks Office 5th Circuit and Eastern District of Virginia.

This day Edwin Burton made affidavit before me that his estate is worth after the payment of his just debts the sum of three hundred dollars.

Teste

HENRY GIBSON
Clerk.

ADDITIONAL.

Pleas at the City Hall, in the city of Richmond, before the court of the United States for the fifth circuit and eastern district of Virginia, on Sat. Friday, the 8th of June, 1827.

Be it remembered, that heretofore, to wit, on the twenty-second day of August, in the year 1826, came William L. Smith, otherwise called William Smith, and Matthew Kennedy, by their attorney, and sued out of the said court of the United States for the fifth circuit and eastern district of Virginia, a writ of capias ad respondendum against Reuben Burton, which writ, with the endorsement and return thereon made, is in the words and figures following:

The President of the United States of America, to the Marshal of the eastern district of Virginia greeting:

You are hereby commanded to take Reuben Burton, a citizen of the State of Virginia, if he be found within your district, and him safely keep so that you have his body before the judges of the court of the United States for the fifth circuit, and in the eastern Virginia district, at the city of Richmond, on the first Monday of September next, to answer William L. Smith, otherwise called William Smith, a citizen of the State of Missouri, and Matthew Kennedy, a citizen of the State of Kentucky, of a plea of trespass on the case of damage, three thousand six hundred dollars; and have there this writ.

Witness John Marshall, Esq., Chief Justice of the United States, at Richmond, this 22nd day of August, one thousand eight hundred and 26, and in the 51st year of the independence of the United States of America.

RD. JEFFRIES, *Clk.*

Endorsement.

Case—assumpsit no bail required.

FORBES, *p. q.*

Return—executed.

WILLIAM CARTER, *D. M.*
For JOHN PEGRAM, *M. E. V. D.*

Service,	-	-	-	$2 00	one dft.
12 miles,	-	-	-	60	
				$2 60	

And at another day to wit, at rules holden in the clerk's office of the said court of the United States for the fifth circuit and eastern

district of Virginia, on the first Monday in September, in the year 1826, came the plts. by their attorney, and filed their declaration against the defendant, which declaration is in these words: In the United States court, 5th circuit E. Virginia district.

VIRGINIA, *Eastern District, to wit:*

William L. Smith, otherwise called William Smith, a citizen of the State of Missouri, and Matthew Kennedy, a citizen of the State of Kentucky, complain of Reuben Burton, a citizen of the State of Virginia, in custody of the marshal, of a plea of trespass on the case. For that, whereas, the said Reuben Burton heretofore, to wit, on the 11th day of April, 1822, in the county of Henrico, to wit, in the eastern district of Viginia aforesaid, and within the jurisdiction of this court, was indebted to the said plaintiffs in the sum of 2960 $\frac{25}{100}$ dollars, lawful money of the United States of America, as well for divers sums of money before that time by the said plt'ffs paid, lent, advanced, laid out and expended to and for the use of the said Reuben Burton, at his special instance and request, as for divers sums of money before that time by the said Reuben Burton had and received, to the use of the said plaintiffs; and the said Reuben Burton, in consideration of being so, as aforesaid, indebted afterwards, to wit, on the said 11th day of April, 1822, at in the county and district aforesaid, within the jurisdiction aforesaid, undertook, and then and there faithfully promised the said plaintiffs to pay them the said sum of $2960 $\frac{25}{100}$ when he should be thereunto afterwards required; and whereas, the said Reuben Burton afterwards, to wit, on the 11th day of April, 1823, at aforesaid, in the county and district aforesaid, within the jurisdiction aforesaid, accounted with the said pltffs. concerning divers other sums of money from the said Reuben Burton to the said pltffs., before that time, owing and then unpaid; and upon such accounting, the said Reuben Burton was then and there found in arrear, and indebted to the said plaintiffs in the further sum of dollars, money aforesaid, in consideration whereof he, the said Reuben Burton, undertook, and there faithfully promised the said plaintiffs to pay them the said last mentioned sum of money, when he, the said Reuben Burton, should be thereunto afterwards required. Nevertheless, the said Reuben Burton, not regarding his said several promises and undertakings, but craftily intending and contriving to deceive and defraud the said plaintiffs in this behalf, hath not, altho' thereunto often requested, as yet, paid to the said plaintiffs the said two several sums of money, or either of them, or any part of both or either of them; but so to do hath hitherto wholly refused, and still doth refuse, to the damage of the said pltffs. $3,600; and therefore they bring suit, &c.

FORBES, *p. q.*

JOHN DOE,
RICH'D ROE, } *Pl. Pros.*

Whereupon the defendant being arrested, and not appearing, on

the motion of the plaintiffs by their attorney, it was ordered that judgment be entered for the plaintiffs against the defendant, for what damages the plaintiffs have sustained by occasion of the non-performance of the promises and assumptions in the declaration mentioned, unless the said defendant should appear and plead to issue, at the then next rules. At which day, to wit, on the first Monday in the month of October, 1826, at rules then holden in the clerk's office of the court of the United States for the fifth circuit and eastern district of Virginia, the defendant still failing to appear, on the motion of the plaintiffs by their attorney, it was ordered that the last order made against him in this cause, be confirmed; and that the plaintiffs' damages be ascertained by a jury, at the then next term.

And at another day, to wit: at a court of the United States for the fifth circuit and eastern district of Virginia, held at the city hall in the city of Richmond, on Saturday, the 23d day of December, 1826, came the parties by their attornies, and the defendant filed the plea of non assumpsit and issue is joined; whereupon it was ordered, that the judgment obtained in the office against the said defendant, be set aside.

And now, at this, to wit: at a court of the United States for the fifth circuit and eastern district of Virginia, held at the city hall, in the city of Richmond, on the same day and year first herein mentioned, to wit, on Friday, the 8th day of June, 1827, (until which time the said cause had been continued,) came the parties by their attorneys, and thereupon came also a jury, to wit: Morton Woodson, Henry Watkins, Robert B. Smith, Joseph H. Haley, Philip Du-Val, Rix Jordan, Warren Bibber and Littleberry Carrington, who, being elected, tried and sworn, the truth to speak upon the issue joined, upon their oath do say, that the defendant did assume upon himself, in manner and form, as the plaintiffs against him have complained, and they do assess the plaintiffs' damages by occasion of the non-performance of that assumption to the amount of thirteen hundred and forty-eight dollars and seventy-five cents, with interest thereon from the first of October, 1823, till paid. Therefore, it is considered by the court, that the plaintiffs recover against the defendant their damages above assessed, and their costs *costs* by them about their suit in this behalf expended; and the defendant in mercy, &c.

The following are the exhibits filed in the above cause:

Account of the divers particular sums of money paid to and received by Cap. Reuben Burton, on account of, and to the use of, William L. Smith and M. Kennedy, making the sum of $\$2960\frac{25}{100}$ in the first count within mentioned.

1818, June 6.	Mr. Wm. H. Fitzwhylsonn's 2nd instalment for sales of land due 3—6 inst. pr. note 3d Dec'r, 1817, at 12 mos.	$ 300 00
Aug. 4.	Part of Maj'r J. Staples's debt,	1,000 00
Dec. 6.	Mr. Fitzwhylsonn's 3rd instalment pr. note as above, a 18 months.	300 00
1822, Ap. 11.	Bal'e of Major Staples's debt, as settled with him this day,	1,319 00
	Proceeds of sales of wood from our land,	41 25
		$2,960 25

Cap. Reuben Burton accounting with William L. Smith and M. Kennedy.

		Dr.		Cr.	
		$	C.	$	C.
1817, July 15.	To cash for his 1st instalment paid by Major Staples, - - -	2,023	35		
	By do. for do. - -			2,293	35
" Dec. 6.	To do. for his 1st instalm't pd. you on ac. pr. Mr. Fitzwhylsonn, -	300	-	-	-
1818, Jan. 15.	" do for 2nd do p'd you on acct. pr. Maj'r Staples, - - -	2,035	-	-	-
	" for rent of house in Scuffletown, rec'd by you, - - -	38	-	-	-
April 16.	By our proportion of refreshments at sale,			11	25
	To and by int. and comm'n pr. agreem't,			-	-
May 19.	By cash p'd Wm. Smith pr. rec't given you in full, - -			2,349	75
		2,361	-	2,361	-
June 6.	To cash for his 2d instalment p'd you on our acc't, by Mr. Fitzwhylsonn, pr. his note 3 Dec'r, 1817, a 18 mo. -	300	-	-	-
Aug. 4.	To do p'd you on acc't by Maj. Staples in part	1,000	-	-	-
Dec. 6.	To do for Mr. Fitzwhylsonn's note, 3d instalment, p'd you on our account.	300	-	-	-
	By one draft on you of 14 Oct., 1818.		-	1,000	-
1820, Apl. 1.	To and by interest and commission.		-	-	-
"	By cash in full acc't. Mr. Fitzwhylsonn's 2d and 3d instalments p'd one Wm. L. Smith pr. his rec't given you.			600	-
		1,600	-	1,600	-
1822, Apl. 11	To cash p'd you on our acc't by Maj'r Staples, in part of the balance of his debt settled this day, when, for the residue, he gave you Woodson & Staples' two notes, viz. one a 12 mo. f $673, and one a 18 mo. f 691 50. - -	50	-	-	-
	By do p'd Marshall & Cluby, fees, 16 90				
	Att. do $10 & $25 tax on writ 150 cts. 36 50			53	40
			-		
1823.	To sales of wood from our land, $17 25 & $2	41	25	-	-
April 14.	" payment of Woodson & Staples's note' due to-day, - -	673	-	-	-
Oct. 14.	" do do do	691	50	-	-
	" Int. on $673 for 6 months. -	20	19	-	-
	Balance due by Cap. Burton, as in 2nd count whereof $1402 38, is principal.			1,422	54
		$1,475	94	$1,475	94

RECEIPTS.

Received, Richmond, May, 19, 1818, of Reuben Burton, Esq'r., $2,349 75, being in full for collections, made of John Staples and others, for myself and M. Kennedy.

Signed WILLIAM SMITH.